OECA and Regional Report

Week Ending October 2, 2015

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Office of Compliance

Regular Highlights:

Enforcement and Compliance Assurance Issues

NetDMR Training for Regulatory Authorities

Office of Compliance staff provided a webinar and on-line demonstration on Tuesday, September 29th to an estimated 40 attendees from 10 States and 2 Regions. Topics covered were how to create an account, managing access, approving Signatory roles, reviewing CORs, and network activity. Common technical issues were discussed in detail, which included the steps the regulatory authorities will take to troubleshoot and resolve the issues. Contacts: Cathy Bius 214-665-6456, Edward Voisin 202-564-1621, Nasrin Lescure 202-564-5013, and Rachiel Durant 202-564-4106.

Release of Agency Agriculture Resource Directory

As part of the Agency's redesign and transformation of its internet pages, OC worked with other HQ offices and the Regions to revise the agriculture pages (www.epa.gov/agriculture) into four parts:

1. regulatory information pertaining to agricultural producers;
2. agriculture success stories and partnerships;
3. environmental programs, practices and topics of interest to agriculture; and
4. additional sources of information from federal, state and local sources.

As before, the agriculture pages link to ag-related information posted by other EPA offices, such as air, water, waste and pesticides. There will continue to be an agriculture news page and users will be able to subscribe to receive emails when ag news is added. Contact: Carol Galloway, 913-551-5092.

Office of Federal Activities

Regular Highlights:

Enforcement and Compliance Assurance Issues

Discussion on BLM Initiatives Impacting NEPA

OFA met with BLM management and staff to discuss current BLM initiatives influencing BLM's implementation of NEPA; including developing improvements to the BLM planning process, implementation of regional mitigation strategies and the development of guidance for analyzing GHG emission and impacts of climate change from BLM actions. Both agencies committed to continuing to engage in discussions around these initiatives in the future. Contact: Jessica Trice, 202-564-6646.

OFA Met with DWSRF Program and OGC Regarding Efforts to Comply with the National Historic Preservation Act

OFA met with OGC and DWSRF staff regarding efforts to comply with NHPA. EPA provides direct grants to the state revolving fund program for safe drinking water projects in every state and territory. These projects qualify as federal undertakings and are subject to NHPA review. OFA is working with both OGC and the DWSRF program on ways to avoid and/or minimize adverse effects to historic properties. Contact: Matt Nowakowski, 202-564-7156.

Digital Investigatory Techniques Workshop

Based on a review of the evaluations of the participants in the Covert Computers Train-the-Trainer Workshop held last week at the Region 5 Office, the training was very well received by the participants. Twenty enforcement officials, including 12 from the U.S. and 8 from Canada, learned new techniques to conduct digital investigations, as well as methods to disguise their identity during these investigations. Representatives from EPA Regions 1, 4, 5, 6, 7, 9, and 10 participated. They, in turn, will share this information with their regional colleagues. A workshop covering this topic will be also presented for Mexican officials in late October. These workshops are activities of the Enforcement Working Group of the Commission for Environmental Cooperation. In addition, based on input from the participants, a webinar will be conducted on an advanced investigatory topic in the near future. Contact: Deborah Kopsick, 202 564-2142.

EIS Filings

Pursuant to a 1978 Memorandum of Agreement between the Council on Environmental Quality (CEQ) and EPA, OFA is responsible for the receipt and filing of all Federal agency EISs. In accordance with CEQ's regulations, OFA publishes in the Federal Register (FR) a weekly Notice of Availability (NOA) of EISs received the preceding week. During the week of September 21 through September 25, 2015, EPA received and filed the following EISs; three draft (LeClerc Creek Grazing Allotment Management Planning; Geary Corridor Bus Rapid Transit Project; and Update of the Water Control Manual for the Apalachicola-Chattahoochee-Flint River Basin in Alabama, Florida, and Georgia and Water Supply Storage Assessment); and four final (Fort

Belvoir Short-Term Projects and Real Property Master Plan Update I; Link Light Rail Operations and Maintenance Facility; Northwest Training and Testing; and Los Angeles River Ecosystem Restoration); one supplemental final (Long Beach Watershed). These items will appear in Friday, October 2, 2015 Federal Register. Contact: Dawn Roberts, 202-564-7146.

Region 1

Regular Highlights:

Enforcement and Compliance Assurance Issues

EPA Issues FIFRA Complaint against Rolf C. Hagen (USA) Corp [Docket No. FIFRA-01-2015-0059]

On September 24, 2015, Region 1 filed an Administrative Complaint against Rolf C. Hagen (USA) Corporation of Mansfield, Massachusetts for alleged violations of Section 2(a)(2)(N) of FIFRA and its implementing regulations. The Complaint alleges that on numerous occasions, Respondent imported for distribution or sale regulated pesticidal devices without submitting to EPA the required Notice of Arrival (NOA) of Pesticides and Devices forms prior to importation. Through the NOA requirements, an importer reports vital information to EPA regarding the device and its major active ingredients, which allows EPA to make informed decisions about whether the importation will pose unreasonable risks to public health and the environmental. For each violation in the Complaint, Region 1 seeks a penalty of up to the statutory maximum under FIFRA. Contact: Kan Tham, 617-918-1872; Audrey Zucker, 617-918-1788.

Region 1 Files EPCRA TRI Complaint against KT Acquisition, LLC [Docket No. EPCRA-01-2015-0054]

On September 24, 2015, Region 1 filed a civil administrative complaint against KT Acquisition LLC (KT) of Worcester, Massachusetts for failing to file required Toxic Release Inventory (TRI) reports by the required July 2013 deadline. KT, through its KomTeK Division, is a precision closed-die forging and investment casting facility. An EPA inspection of the KT facility confirmed the existence of nickel, cobalt, and chromium above the TRI reporting thresholds. EPA is seeking the statutory maximum penalty of $37,500 for each of the three reporting violations alleged in the Complaint. Failure of a facility to file TRI forms deprives the community of its right to know about releases and the presence of chemicals in the neighborhood. This enforcement action is expected to encourage compliance by the regulated community with the reporting requirements of EPCRA and will ensure that the community is not deprived of its right to know about chemical releases that may affect public health and the environment. Contact: David Peterson, 617-918-1891; Chris Rascher, 617-918-1834.

Region I Settles CAA RMP Action against U.S. Army Corps of Engineers Laboratory [Docket No. CAA-01-2015-0064]

On September 28, 2015, Region 1 filed a consent agreement and final order resolving violations by the U.S. Army Corps of Engineers-Cold Regions Research and Engineering Laboratory of the Clean Air Act's Risk Management Program regulations. The Army Corps uses anhydrous ammonia in the refrigeration process for its controlled-temperature hydraulic research facility. The CAFO includes payment of a civil penalty of $85,059 and requires the Army Corps to complete the compliance actions remaining from EPA's Administrative Order. The settlement is designed to reduce the likelihood of a release of anhydrous ammonia from the facility and to limit the severity of any ammonia release that might occur. The Army Corps will install a state-of-the art ventilation system that will significantly enhance the safety of the facility and its

ability to minimize the effects of any release of ammonia. Further, as a result of this action, the Army Corps initiated revitalization of the inactive local/regional emergency planning committee, which will enhance emergency response coordination in the communities surrounding the Facility. Contact: Len Wallace, 617-918-1835; Christine Foot, 617-918-1333.

Region 1 Settles TSCA RRP Rule Action against Whitney Management and Maintenance Co. [Docket No. TSCA-01-2015-0050]

On September 28, 2015, EPA filed a consent agreement and final order resolving violations of the requirements of the Renovation, Repair and Painting Rule, promulgated pursuant to Section 402(c)(3) of the Residential Lead-Based Paint Hazard Reduction Act of 1992. Whitney Management and Maintenance Company is a property management company located in Connecticut. EPA alleged four violations pertaining to a renovation project performed in 2014 in East Haven, Connecticut. The company has come into compliance with the Renovation, Repair, and Painting Rule. Whitney Management and Maintenance Company has agreed to pay a penalty of $10,285 to resolve the violations. This settlement is expected to encourage compliance in the regulated community with the Renovation, Repair and Painting Rule and help protect residents from exposure to lead-based paint. Contact: Christine Foot, 617-918-1333; Molly Magoon, 617-918-1848.

Region 1 Signs Administrative Order on Consent to Obtain Compliance with CAA § 112(r) Requirements at Garelick Farms, LLC

On September 28, 2015, EPA signed an administrative order on consent (AOC) with Garelick Farms, LLC of Lynn, Massachusetts. The company, a subsidiary of Dean Foods Company, operates a dairy, which uses anhydrous ammonia in the plant's refrigeration system to chill milk and juices. An EPA inspection revealed that the company had violated many of the risk management program requirements of 40 C.F.R. Part 68. The AOC requires compliance with such requirements. The facility is located in an area of potential Environmental Justice interest that ranks above the 80th percentile of all block groups nationwide for all twelve of the listed environmental factors listed in the primary EJ index. Contact: Len Wallace, 617-918-1835; Stuart Hunt, OECA, 202-564-2591.

Region 1 Resolves RCRA Violations at RI Freight Service Facility [Docket No. RCRA-01-2015-0069]

On September 29, 2015, Region 1 filed a consent agreement and final order that simultaneously initiated and resolved a RCRA enforcement action against Con-way Freight, Inc. (Con-way). Con-way is a freight transportation company that operates a network of 295 freight service centers to provide freight shipping services throughout North America, including a facility located in Cranston, Rhode Island. Con-way facilities generate various types of hazardous wastes when products containing hazardous materials are damaged during shipment and are no longer considered product. Region 1 alleged that Con-way violated state hazardous waste management regulations at its Rhode Island facility. Con-way agreed to pay a $42,900 penalty in settlement of the action. Contact: Drew Meyer, 617-918-1755; Bill Chin, 617-918-1728.

EPA Settles CAA RMP Action against City of Meriden, CT [Docket No. CAA-01-2015-0044]

On September 30, 2015, Region 1 filed a consent agreement and final order resolving Clean Air Act penalty claims against the City of Meriden, Connecticut (Meriden). Meriden's operation of its water treatment facility violated the CAA by failing to comply with the Risk Management Plan (RMP) requirements of 40 C.F.R. Part 68. At the time of the matters addressed in the pre-file negotiation, Meriden was storing up to 11,750 pounds of chlorine gas, an extremely hazardous substance, in the chlorine tank room of its water treatment facility but had failed to properly implement an RMP. In 2014, Meriden voluntarily expended $17 million to substitute sodium hypochlorite for chlorine gas at its facility. Sodium hypochlorite is a much less hazardous material than chlorine gas. As a result of this substitution, Meriden is no longer subject to the RMP regulations. Pursuant to the settlement, Meriden will perform a Supplemental Environmental Project costing approximately $144,000 and pay a civil penalty of $10,000 to resolve liability for the CAA violations. Contact: Jim Gaffey, 617-918-1753; Steven Schlang, 617-918-1773.

Region 1 Files EPCRA TRI Complaint against Savage Arms, Inc

On September 30, 2015, Region 1 filed a civil administrative complaint against Savage Arms, Inc. (Savage) of Westfield, Massachusetts for failing to file required Toxic Release Inventory (TRI) reports by the required 2012, 2013, and 2014 deadlines. Savage manufactures metal rifle components and assembles rifles with the components machined at the facility as well as other components brought in from elsewhere. An EPA inspection of the Savage facility confirmed the existence of methanol, lead, and chromium above the TRI reporting thresholds. In the Complaint, EPA is seeking up to the statutory maximum penalty of $37,500 for each of the eight reporting violations alleged, but has offered a lower settlement amount base on the penalty policy for EPCRA §313 cases. Failure of a facility to file TRI forms deprives the community of its right to know about releases and the presence of chemicals in the neighborhood. This enforcement action is expected to encourage compliance by the regulated community with the reporting requirements of EPCRA and will ensure that the community is not deprived of its right to know about chemical releases that may affect public health and the environment. Contact: David Peterson, 617-918-1891; Chris Rascher, 617-918-1834.

Region 1 Settles TSCA Lead Paint Action against AA Chen Services, LLC [Docket No. TSCA-01-2015-0042]

On September 30, 2015, Region 1 filed a consent agreement and final order settling claims for civil penalties against JPAA Chen Services, LLC for violating TSCA by failing to disclose known lead-based paint and/or lead-based paint hazards in the course of leasing property in New Haven, Connecticut. The settlement calls for the payment of a $4,700 penalty and the performance of a lead-based paint abatement Supplemental Environmental Project (SEP) worth $42,300. The proposed SEP will involve the removal and replacement of lead-based paint and/or lead-based paint hazards, followed by clearance testing. The Respondent will abate windows, trim and a porch, among other components, at target housing owned by Respondent. For this reason, Respondent's future tenants will have reduced chances of exposure to lead-based paint and/or lead-based paint hazards. Contact: Kathleen Woodward, 617-918-1780; Molly Magoon, 617-918-1848.

Region I Files CWA Administrative Penalty Complaint against Advance Coatings Co

Region I has filed an administrative complaint proposing that Advance Coatings Company of Westminster, Massachusetts, a plastics material and resin manufacturer, pay an administrative penalty for Clean Water Act violations. Due to human error, Advance Coatings staff over-filled a container with styrene monomer. The resulting spill entered into the Fitchburg, Massachusetts sewage collection system through a failed berm around a floor drain and caused two days of pass through and one day of interference at the Town's wastewater treatment plant. In addition, the company discharged stormwater associated with industrial activity without a permit and failed to apply for permit coverage. Finally, the company is subject to EPA's oil pollution prevention regulations, but has not developed and implemented a spill prevention, control, and countermeasure plan. Contact: Michael Wagner, 617-918-1735; Dave Pincumbe, 617-918-1695.

Region 1 Files CAA 112r and RMP Administrative Complaint against Penobscot McCrum, LLC [Docket No. CAA-01-2015-0065]

On September 30, 2015, Region 1 filed an Administrative Complaint against Penobscot McCrum, LLC alleging violations of Section 112(r) of the Clean Air Act (CAA), 42 U.S.C. § 7412(r), and the Risk Management Plan (RMP) regulations promulgated thereunder at 40 C.F.R. Part 68 for the company's ammonia refrigeration system at its facility located in Belfast, Maine. EPA's Complaint seeks up to a statutory maximum of $37,500 per day of violation. Complying with RMP regulations helps companies prevent accidental releases of extremely hazardous substances. The RMP requirements also help the company and emergency responders prepare for and respond to chemical emergencies. A key concern at this facility is that neither the facility nor the local responders are equipped to respond to an ammonia release, and the closest hazardous materials responders could not arrive in a timely way. Contact: Maximilian Boal, 617-918-1750; Jim Gaffey, 617-918-1753.

Region 1 Issues CWA Order on Consent to Kensington Fire District

On September 30, 2015, EPA issued a Clean Water Act Administrative Order on Consent (Order) to the Kensington Fire District (KFD). The Order is based upon unauthorized discharges from KFD's sanitary sewer collection system (Collection System) to waters of the United States. The Order requires that, in order to prevent future sanitary sewer overflows, KFD will develop and implement a Capacity, Management, Operations, and Maintenance program and submit documentation of its program to EPA and the Connecticut Department of Energy and Environmental Protection. Contact: John Melcher, 617-918-1663.

Region I Issues RCRA Administrative Penalty Action against C.E. Bradley

On September 29, 2015, Region 1 issued an administrative complaint against C.E. Bradley Laboratories, Inc. of Brattleboro, Vermont alleging hazardous waste management violations of RCRA. The company manufactures coatings for the wood, metal, graphic arts and plastic industries. The complaint proposes the statutory maximum penalty of $37,500 per violation. Because waste organic solvents at the facility were not properly managed, they posed a significant risk of harm to workers at the facility and the environment. Contact: Drew Meyer, 617-918-1755; Andrea Simpson, 617-918-1738.

Region 2

Regular Highlights:

Enforcement and Compliance Assurance Issues

CAA Consent Decree with Virgin Islands Water and Power Authority Lodged in Court

On September 24, 2015, the U.S. Department of Justice, on behalf of EPA, lodged a consent decree between EPA and the Virgin Islands Water and Power Authority (VIWAPA) that lays out steps to end persistent violations of the Clean Air Act at VIWAPA's St. Thomas and St. John facilities. The settlement requires VIWAPA to comply with all applicable provisions of the CAA, which include the New Source Performance Standards Subparts GG and KKKK applicable to stationary gas turbines, the Virgin Islands SIP, and conditions of the facility Prevention of Significant Deterioration and Title V Operating Permits and violations of the NESHAP for Reciprocal Internal Combustion Engines (RICE NESHAP).

At the St. Thomas Facility, the consent decree requires, among other things: (1) operation and maintenance of the water injection pollution control system within established required operating ranges; (2) quarterly quality assurance control testing of and operation and maintenance of the NOX and carbon monoxide continuous emission monitoring system (CEMS) and continuous opacity monitoring system (COMS) in accordance with data availability requirements; and (3) stack/performance testing. To assure compliance at the St. Thomas Facility, the consent decree also requires: (1) third party audits and self-audits on alternating years on all units; (2) development and maintenance of a Spare Parts Inventory Program for the water injection system, CEMS and COMS; (3) installation of audible alarms to ensure maintenance of compliance within the established, required, operating ranges and (4) retention of a third party contractor for at least three years to enable proper operation of the CEMS and COMS.

At the St. John Facility, the consent decree requires: (1) compliance with the RICE NESHAP; (2) use of diesel fuel at the St. John diesel engine that meets the requirements of 40 C.F.R. § 80.510(b) for nonroad diesel fuel; and (3) submission of a request to the permitting authority to withdraw the St. John Title V Operating Permit and issue a State Operating Permit allowing the St. John diesel engine to operate as an emergency unit using ultra low sulfur diesel fuel. The CD further requires VIWAPA to post on its website the kWh of power generated by renewables, burning LPG/LNG, and burning fuel oil on a monthly basis at the St. Thomas Facility. VIWAPA will also pay a $1,300,000 penalty to resolve the past violations. Contact: Denise Leong, 212 637-3214; Management Contact: Flaire Mills, 212 637-3198.

EPA Signs Judicial Consent Decree for Cleanup of Alcas Source Area at Olean Well Field Superfund Site

On September 30, 2015, a judicial consent decree between the United States, Alcoa, Inc., and Cutco Corporation was signed by Region 2 and sent to the Department of Justice for signature and lodging. Under the terms of the consent decree, Alcoa and Cutco will perform the remedy selected in EPA's September 2014 OU2 ROD Amendment and OU3 ROD for the Alcas Source Area at the Olean Well Field Site, located in the City of Olean, Cattaraugus County, New York. The value of the remedy is $3.4 million. The work to be performed includes in-situ chemical

oxidation of soils beneath and adjacent to the manufacturing building; enhanced anaerobic bioremediation of shallow groundwater at an area downgradient of the facility; implementation of institutional controls to restrict groundwater use; and long-term groundwater monitoring. In addition, Alcoa and Cutco will pay $612,000 as reimbursement for EPA's past response costs, and all of EPA's future response costs. Contact: Sharon Kivowitz, staff lead (212) 637-3183; Virginia Capon, management lead (212) 637-3163.

Region 2 Signs CA/FO with Cemex de Puerto Rico, Inc. for CAA Violations

On September 30, 2015, EPA Region 2 executed a Consent Agreement and Final Order (CA/FO) resolving Cemex de Puerto Rico, Inc.'s (CEMEX) liability related to CAA Prevention of Significant Deterioration violations at CEMEX's Portland cement and limestone production facility in Ponce, Puerto Rico. Pursuant to the CA/FO, CEMEX will pay a civil penalty of $160,000, and will install a selective non-catalytic reduction (SNCR) system to reduce NO_X emissions from its cement kiln. Cemex has agreed to a NO_X limit of 2.3 pounds of NO_X /ton of clinker produced, based on a 30-day rolling average. Applying this limit to the facility's permitted production capacity of 1,238,100 yields 1,423 tons per year (tpy) of NO_X emissions, a reduction of 55% from the baseline emissions in 1997 of 3,165 tpy. Contacts: Liliana Villatora, ORC, 212-637-3218; and Harish Patel, DECA, 212-637-4046.

Region 2 Issues Complaint to Atlantic County Utilities Authority

On September 30, 2015, EPA Region 2 issued a Complaint and Notice of Opportunity to Request a Hearing to Atlantic County Utilities Authority (ACUA), for its failure to comply with landfill surface monitoring requirements at ACUA's Atlantic County Landfill in violation of Sections 111, 112 and 114 of the Clean Air Act. The Complaint includes a proposed penalty of $98,160 for ACUA's failure to meet: 1) monitoring instrument specifications and calibration gas requirements; 2) monitoring instrument performance evaluation requirements; and 3) instrument calibration requirements. Contacts: Anhthu Hoang, ORC, 212-637-5033; Phil Ritz, DECA, 212-637-4064; and Joseph Cardile, DECA, 212-637-4054.

Region 2 Enters into RCRA Administrative Consent Agreement with New York-Based Electronics Recycling Operation

On September 30, 2015, Region 2 issued a Consent Agreement and Final Order to Respondent ECO International, LLC, pursuant to RCRA. The Respondent is a New York-based company that recycles electronic equipment (including cathode ray tubes ["CRTs"], such as older television screens and computer monitors). CRTs contain lead in concentrations that subject them to hazardous waste regulation under RCRA. Respondent accepted the CRTs at its Vestal, New York, facility, crushed them, and then shipped the resulting crushed glass to its Hallstead, Pennsylvania, facility, from where Respondent would ready the glass for off-site shipment, much of it for export abroad. From the time of the 2010 collapse of the export market, Respondent undertook efforts to identify alternative means to properly dispose of the glass. The settlement into which the parties entered requires Respondent properly to dispose of the remaining glass by shipping it to a licensed/permitted treatment, storage or disposal facility by November 2015, and it also obligates Respondent to clean the areas where such glass had been handled and stored. Respondent must also provide EPA with periodic reports on the progress of the remaining clean-

up efforts. In addition, Respondent is required to pay a penalty of $9,180. As a result of this proceeding and settlement, it is anticipated that over 26 million pounds of lead-containing crushed glass will be properly disposed of, thereby preventing the dispersal of lead into the environment (an especially paramount concern given the proximity of the Pennsylvania facility to the Susquehanna River) and also avoiding a problem encountered in other parts of the country where some facilities with crushed CRT glass have been abandoned. Contacts: Ron Voelkel, RCRA Compliance Branch, 212-637-1470; or Lee Spielmann, ORC, 212-637-3222.

RCRA Section 7003 AOC Issued to Municipality of Isabela, Puerto Rico

On September 24, 2015, EPA Region 2 issued a RCRA Section 7003 Administrative Order on Consent (AOC) to the Municipality of Isabela, Puerto Rico, concerning its municipal solid waste landfill. The AOC requires that the Municipality undertake activities leading to an orderly and properly engineered landfill closure. The Isabela landfill is approximately 18 acres in size and has been receiving solid waste since 1978. Deficient conditions at the landfill include unstable slopes, lack of leachate control and groundwater monitoring, lack of storm water management, poor daily cover and lack of access controls. The landfill is located in an area of sensitive ecosystems, and increases the risk of contamination of the underlying aquifer. The AOC requires the cessation of all waste receipt at the active landfill cell by June 30, 2019, and final closure in accordance with a schedule approved by EPA. Among other requirements, the AOC mandates immediate operational improvements, and the implementation of an EPA approved slope remediation plan. The AOC also requires the implementation of a comprehensive municipality-wide recycling plan, pursuant to a plan approved by EPA. Program contact: Meghan LaReau 212-637-4067; ORC contact: Robert Hazen, 212- 637-3215.

EPA Region 2 Settles TSCA Case with Blaser Swisslube, Inc

On September 24, 2015, EPA Region 2 executed a Consent Agreement and Final Order resolving a consolidated action against the above-referenced party under Section 16(a) of the Toxic Substance Control Act. Respondent had earlier, in 2013, settled a matter with EPA involving Section 5 and 13 TSCA violations. The present action resolved additional Section 5 violations which Respondent brought to EPA's attention. The self-reported violation concerned Respondent's failure to notify EPA of its intent to import a new chemical substance which was not listed on the TSCA inventory. Respondent agreed to pay a penalty of $89,750. Respondent represents that it is currently in compliance with the requirements of TSCA and its implementing regulations and will maintain such compliance henceforth. Legal Contact: Carl R. Howard, (212) 637-3216. Technical Contact: Mark Bean, (732) 906-6606.

Settlement of Clean Air Act § 112(r) Case against Vanchlor Company, Inc

On September 30, 2015, a Consent Agreement/Final Order was signed by Region 2 in the Matter of Vanchlor Company Inc. Under the terms of the CA/FO, Vanchlor, an aluminum chloride manufacturing facility in Lockport, New York, has agreed to pay a penalty of $33,150 for failing to comply with the Risk Management Plan regulations, set forth at 40 C.F.R. Part 68, which were promulgated pursuant to Section 112(r) of the Clean Air Act. Contacts: Lauren Charney (212) 637-3181, Jean Regna (212) 637-3164.

EPA Enters into TSCA Settlement with 38 Coah Associates, LLC

On September 29, 2015, Region 2 issued a Consent Agreement and Final Order to Respondent 38 COAH Associates, LLC, pursuant to the Toxic Substances Control Act. Respondent, a New Jersey-based company that develops commercial properties, owned a site in Edgewater, New Jersey, that was contaminated with PCBs because of the manufacturing activities of Alcoa, a prior owner. Based on a June 2014 inspection, EPA determined that Respondent had violated a number of requirements under the PCB regulations, 40 C.F.R. Part 761, including: a) Respondent improperly disposed of PCB remediation waste (crushed concrete resulting from the demolition of a building previously used by Alcoa; b) Respondent improperly stored PCB-contaminated soil in that it was not fully shielded from precipitation; c) Respondent disposed of two PCB-contaminated tanks without having decontaminated them in accordance with PCB regulations or having sent them to chemical waste landfill; d) Respondent improperly shipped waste without identifying on the accompanying manifest that the waste was PCB-contaminated; and e) Respondent improperly shipped PCB-contaminated soil without having identified the generator of such waste or the date when such waste was first prepared for disposal. As part of the settlement, Respondent is to pay a civil penalty of $87,500 and must evaluate its commercial activities to ensure it presently is in compliance with the PCB regulations. Contacts: Vivian Chin, PTSB, 732-906-6179; Lee Spielmann, ORC, 212-637-3222.

Region 2 Issues Administrative Complaint to Kawasaki Rail Car, Inc

On September 30, 2015, Region 2 issued an administrative complaint alleging violations of RCRA by the Kawasaki Rail Car, Inc., a manufacturing facility in Yonkers, NY. In its complaint, EPA alleged that Kawasaki had in 2013 stored hazardous wastes at its facility without having a hazardous waste permit, and without complying with conditions which would have exempted it from having to obtain such a permit. The complaint includes a proposed penalty of $88,900. The amount of the penalty reflects the fact that the company entered into a 2009 judicial Stipulation and Order with the United States resolving prior allegations of similar RCRA violations at the facility in 2006. Contacts: Stuart Keith, Regional Attorney (212) 637-3217; Ronald Voelkel, Regional Inspector (212) 637-1470.

Region 2 Settles RCRA Administrative Case with Products Safety Labs, Inc

Region 2 signed on September 23, 2015, a RCRA Consent Agreement/Final Order assessing a cash penalty of $64,350 against Products Safety Labs, Inc. for the following violations at its Dayton, New Jersey facility: (1) failure to ensure that employees have hazardous waste training, and (2) storage of hazardous waste without a permit. In addition, the company agreed to come into compliance with applicable requirements of RCRA including New Jersey's authorized hazardous waste regulations. ORC contact: Jeannie M. Yu, (212) 637-3205. Program contact: Meghan LaReau, (212) 637-4067.

Administrative Compliance Orders issued to Non-PRASA Communities

On September 24, 2015, Administrative Compliance Orders were issued by EPA Region 2 under the Safe Drinking Water Act to the Borinquen Praderas Community, the Santa Barbara Community, the Veguitas Gripiñas Community, the Santa Barbara 2 Community, and the Alturas de Collores Community, all located in Puerto Rico. Also, on September 29, 2015,

compliance orders were issued to the La Montaña Community and Cerrote Community. The orders were issued to the communities for their failure to provide filtration and disinfection treatment processes to their public water system as required by the Surface Water Treatment Rule (SWTR) and the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) promulgated pursuant to the Safe Drinking Water Act. The orders require each community to develop an Action Plan outlining the actions to be taken to remedy their SWTR and LT1ESWTR violations. The orders give the communities two years to comply with the filtration and disinfection requirements pursuant to the SDWA or to eliminate the surface water source. Contact: Evelyn Rivera-Ocasio, ORC, 787-977-5859.

Region 3

Regular Highlights:

Enforcement and Compliance Assurance Issues

Region Refers Bankruptcy Proof of Claim in Connection With the Coyne Textile Services Superfund Site, Wayne County, West Virginia

On September 23, 2015, Region III requested that the Department of Justice file a Proof of Claim in bankruptcy court against Coyne International Enterprises Corporation (Coyne) under CERCLA Section 107(a) in connection with the Coyne Textile Services Superfund Site (Site). The Proof of Claim is for $5.8 million in costs incurred by EPA and between $1.3 million and $5 million in estimated future costs. The Site, located in Huntington, Wayne County, West Virginia, includes a 6.4 acre parcel at which dry cleaning and industrial laundry facilities operated from 1971 to 2006. Site soils and ground water emanating from the Site are contaminated with tetrachloroethylene and its chemical degradation products. Coyne was an owner/operator of the Site during the time hazardous substances were disposed of there.

EPA has been conducting a removal action at the Site since March 2011. EPA response actions have included installation and operation of an air sparging/soil vapor extraction system to address soil contamination and in situ chemical oxidation to treat contaminated ground water. Contacts: Joan A. Johnson, (215) 814-2619, Carlyn Prisk, (215) 814-2625.

DOJ Files Complaint and Lodges Consent Decree for a CERCLA Cost Recovery Action in Connection With the Chesapeake Products Superfund Site [Civil Action No. 2:15-cv-434]

On September 28, 2015, the U.S. Department of Justice filed a civil action against Chesapeake Products and Frit, Inc. (Settling Defendants) for payment of past response costs at the Chesapeake Products Superfund Site (Site) located in Chesapeake, Virginia, pursuant to CERCLA § 107(a). The Department of Justice also filed a Notice of Lodging of Consent Decree, which, once it is entered, will require Settling Defendants to pay EPA $200,000 to settle the United States' claim for response costs. At the time of the Superfund removal activities, the Site included several structures that had been used in the manufacture of fertilizer and also to store raw materials. EPA initiated an emergency removal action in May 2007 to address lead contamination at the Site. EPA completed its removal action in February 2010. The Notice of Lodging has been submitted for transmission to the Federal Register to commence a thirty-day comment period. Contacts: Robin E. Eiseman, (215) 814-2612, Carlyn Winter Prisk, (215) 814-2625.

United States District Judge Enters Consent Decree to Recover Past Costs Incurred, All Future Response Costs, and Perform the Remedial Design and Remedial Action, in Connection With the Central Chemical Superfund Site [Civil Action No. 1:15-cv-02426]

On September 29, 2015, the United States District Court for the District of Maryland entered a Consent Decree in connection with the Central Chemical Superfund Site (Site) located in Hagerstown, Washington County, Maryland, Civil Action No. 1:15-cv-02426. Under the terms

of the Consent Decree, the Settling Defendants have agreed to complete the following actions: (1) finance and perform the remedial action selected by EPA in accordance with a September 2009 Record of Decision for Operable Unit 1 (OU1), totaling over $14 million; (2) pay EPA $945,117.64 for its past response costs at the Site through March 18, 2014; and (3) pay all future response costs related to OU1. The Site is a former pesticide formulation facility and encompasses approximately 19 acres, located on Mitchell Avenue within the city limits of Hagerstown, Washington County, Maryland, and any areas where Site-related hazardous substances have come to be located. Central Chemical Corporation blended raw pesticides manufactured at other locations, such as DDT, Sevin, DDD, Aldrin, Dieldrin, Chlordane, and Toxaphene, to produce commercial grade pesticides. EPA and the State of Maryland entered the Consent Decree with sixteen settling defendants. Contacts: Robin E. Eiseman, (215) 814-2612, Mitch Cron, (215) 814-3286, Carlyn Prisk, (215) 814-2625.

CERCLA Administrative Cost-Recovery Settlement with Two Parties at Lin Electric Superfund Site in WV, Becomes Effective [Docket No. 03-2015-0182CR]

On September 29, 2015, following a thirty-day public comment period during which EPA received no comments the Agency provided written notice to Respondents Danny E. Lusk and Gordon M. Lusk (collectively, the Lusks), that an administrative cost-recovery settlement between EPA and the Lusks has become effective. In accordance with the terms of the settlement, the Lusks are now required to pay the Agency $21,358.00 by Thursday, October 29, 2015, for past responses costs incurred by EPA at the Lin Electric Superfund Site in Bluefield, West Virginia (Site). On July 23, 2013, EPA entered into a Consent Decree with Cooper Industries, LLC (another potentially responsible party at the Site) for payment of $340,000, reducing EPA's recoverable past costs to $919,707.32. This settlement completes EPA's cost recovery at the Site. Contacts: Robin Eiseman, (215) 814-2612, Carlyn Winter Prisk, (215) 814-2625.

CWA Settlement with Fort Lincoln Retail, LLC, for NPDES Construction Stormwater Violations

On September 29, 2015, EPA filed a Consent Agreement and Final Order (CAFO) resolving alleged construction stormwater violations at a construction site in Washington, D.C. The CAFO assesses a penalty of $99,000. On April 29, 2015, Region III had filed an administrative complaint against Ft. Lincoln Retail, LLC, a/k/a Fort Lincoln Retail, LLC, proposing a penalty of $177,500. A 2012 EPA inspection had identified a number of violations of the 2012 Construction General Permit, including failing to maintain erosion and sedimentation controls, failing to conduct and document required inspections, and failing to protect storm drain inlets. Contacts: Kelly Gable, (215) 814-2471, Kyle J. Zieba, (215) 814-5420.

EPA Region III Settles CERCLA and EPCRA Matter Against Delaware City Refining Company, LLC [Docket No. CERC-03-2015-0119; EPCRA-03-2015-0119]

On September 29, 2015, EPA filed a Consent Agreement and Final Order, which initiated and settled EPA's penalty claim for violations of CERCLA Section 103 and EPCRA Section 304, in connection with a release of benzene that occurred on September 21, 2014 and a release of 1,3-butadiene that occurred on February 22, 2015, at Respondent's facility located at 4550 Wrangle

Hill Road, Delaware City, Delaware. The Consent Agreement asserts that Respondent failed to immediately notify the National Response Center, the local emergency planning committee, and the State emergency response commission as soon as Respondent knew or should have known that a release of a hazardous substance, had occurred at the Facility in an amount equal to or exceeding the applicable reportable quarterly. Respondent has agreed to pay a penalty of $73,113.75 to settle the matter. Contacts: Lauren Ziegler, (215) 814-2623, Anne Gilley, (215) 814-3293.

Region III Files Super CAFO in CWA Case against City of Hopewell, Virginia
On September 29, 2015 Region III filed a SuperCAFO resolving alleged CWA NPDES permit effluent violations by the City of Hopewell, Virginia, related to the Hopewell Regional Wastewater Treatment Facility. The effluent violations were for parameters including: ammonia, CBOD5, dissolved oxygen, TSS and residual chlorine, for the period from December 2008-April 2015. Hopewell has agreed to pay a penalty of $50,000. Contacts: Deane Bartlett, (215) 814-2776, Andrew Seligman, (215) 814-2097.

Region III Issues Consent Agreement and Final Order for FIFRA Violations at AgroChem, Inc. and ChemGro Fertilizer Co., Inc. [Docket No. FIFRA-03-2015-0260]
On September 29, 2015, EPA Region III filed a Consent Agreement and Final Order simultaneously commencing and concluding an administrative action against AgroChem, Inc. (AgroChem) and ChemGro Fertilizer Co., Inc. (ChemGro) (together Respondents) for violations of FIFRA and the Pesticide Programs Regulations found at 40 C.F.R. Subchapter E. The alleged violations stem from the sale or distribution of the supplemental pesticide product "Bale-Guard. Specifically, EPA alleged that Respondents sold Bale-Guard with a misbranded label, in violation of FIFRA § 12(a)(1)(E). The label was misbranded in several ways, including failure to include proper directions for use, failure to include proper disposal instructions, and failure to include several important precautionary statements. Per the terms of the CAFO, Respondents will pay a civil penalty in the amount of forty one thousand seven hundred dollars ($41,700.00). Contacts: Jennifer J. Nearhood, (215) 814-2649, Sorto, (215) 814-2123.

Region III Files Consent Agreement and Final Order with Tolino's Fuel Service, Inc., Resolving Alleged Violations of CWA 311 (j) [Docket No. CWA-03-2015-0253]
On September 29, 2015, EPA Region III filed a signed Consent Agreement and Final Order (CAFO) resolving an action against Tolino's Fuel Service Incorporated for suspected violations of Section 311(j) of the Clean Water Act, in connection with its fuel storage and distribution facility in Bangor Pennsylvania. Specifically, EPA alleged that Tolino Fuel Serivices, Inc. failed to comply with 40 C.F.R. § 112.3(d) because its SPCC plan was not properly certified by a registered professional engineer; failed to comply with 40 C.F.R. § 112.7(a)(4) because its spill reporting form did not account for the necessary information needed to appropriately characterize a release at the facility; failed to comply with 40 C.F.R. § 112.7(f) because it could not provide written documentation to show if it had trained, at a minimum, the oil-handling facility personnel in the operation and maintenance of equipment to prevent oil discharges, discharge procedures protocols, and general facility operations; failed to comply with 40 C.F.R. § 112.7(g) because the SPPC plan was devoid of any discussions relating to security; failed to

comply with 40 C.F.R. § 112.7(a)(4) because the SPCC plan is devoid of any discussions relating to the loading racks; failed to comply with 40 C.F.R. § 112.8(b) because the SPCC plan does not address the necessary procedures for handling accumulated water in diked areas; failed to comply with 40 C.F.R. § 112.8(c) because Tolino failed to provide any secondary containment for two loading racks at its Facility and existing secondary containment were compromised due to vegetative growth. The CAFO requires Respondent to pay $25,000.00 in civil penalties. Contacts: Jefferie Garcia, (215) 814-2697, Arlin Galarza-Hernandez, (215) 814-3223.

EPA and Misco Products Have Negotiated a SCAFO in Settlement of a FIFRA Misbranding Case [Docket No. FIFRA-03-2015-0193]

The primary registrant for a pesticide must register the pesticide with EPA and have labeling for the pesticide that meets the requirements of FIFRA. A second person (supplemental distributor) may distribute or sell a registered pesticide under their name instead of (or in addition to) the primary registrant. The label on the second person's product must generally match the primary registrant's label and also meet the requirements of FIFRA or it is misbranded. Misco Products Corporation sells or distributes a pesticide on behalf of a supplemental distributor of the pesticide. Misco distributed or sold the pesticide under the brand name "Shockwave." The Shockwave label was inaccurate in its precautionary statements and its description of the pesticide's possible uses. Additionally, its directions for use had multiple mistakes. In settlement, EPA agreed to Misco's payment of a $12,000 penalty. The Region entered the SCAFO on September 29, 2015. Contacts: Philip Yeany, (215) 814-2495, Christine Convery, (215) 814-2249.

Region III Issues Administrative Complaint to Boston Design & Construction Co., Inc., of Drexel Hill, PA, for Alleged Violations of RRP Rule [Docket TSCA-03-2013-0258]

On September 30, 2015, EPA, Region III, filed an Administrative Complaint and Notice of Opportunity for Hearing alleging that Boston Design & Construction Co., Inc. (Boston) of Drexel Hill, PA, violated TSCA's Renovation, Repair, and Painting (RRP) Rule during renovations of a pre-1978 property at 123 N. Lambert Street in Philadelphia. The Complaint alleges that Boston violated the RRP Rule by failing to: 1) obtain initial firm certification from EPA to perform renovations on pre-1978 properties for compensation; 2) provide the owner with the EPA lead hazard information pamphlet; 3) ensure that a certified renovator is assigned to each renovation performed by Corbett and that such renovator discharges all of the certified renovator responsibilities; and 4) retain all records necessary to demonstrate compliance with RRP Rule. A civil penalty of $12,440 is proposed for the alleged violations. Contacts: Janet E. Sharke, (215) 814-2689, Annie Hoyt, (410) 305-2640.

Region III Files Consent Agreement and Final Order Settling Alleged Violation of UST Requirement by Government of District of Columbia [Docket RCRA-03-2015-0233]

On September 30, 2015, EPA, Region III, filed an administrative Consent Agreement and Final Order, simultaneously commencing and concluding a proceeding against the Government of the District of Columbia (Respondent), an owner or operator of an underground storage tank (UST) located at the Robert E. Kennedy Memorial Stadium, 2400 East Capitol Street, SE, Washington, DC. The Agreement alleges that Respondent did not monitor its UST for releases every 30 days

at various times in 2010, 2011, 2012, 2013 and 2014, in violation of the EPA-approved District of Columbia UST regulation, 20 DCMR § 6003.2 (40 C.F.R. § 280.41(a)), and Subtitle I of RCRA. In early 2015, Respondent permanently closed the UST. The CAFO requires that Respondent pay a civil penalty amount of $10,000. Contacts: Janet E. Sharke, (215) 814-2689, Melissa Toffel, (215) 814-2060.

Region 3 Issues an Expedited Settlement Agreement to Settle a TSCA Lead-Based Paint RRP Case Involving Only Bathrooms, LLC. [Docket No. TSCA-03-2015-0242]

On September 30, 2015, EPA Region 3 issued an Expedited Consent Agreement and Final Order settling an enforcement action against Only Bathrooms, LLC, from Springfield, Virginia (Respondent) for violations of the RRP rule. Respondent violated the RRP Rule during a renovation at 1800 S. Pollard Street, Arlington, Virginia in July 2013 by failing to: (a) obtain, from the owner a written acknowledgement that the owner has received the pamphlet or obtain, a certificate of mailing at least seven (7) days prior to the renovation; (b) perform recordkeeping and reporting requirements; (c) obtain EPA certification, and ensure that certified renovators were assigned to the renovation and that the workers were either certified renovators or trained by one. Pursuant to the Lead-based Paint Expedited Settlement Agreement Pilot Program, Respondent agreed to pay a civil penalty in the amount of $4,000 for the violations. Contacts: Louis Ramalho, (215) 814-2681, Annie Hoyt, (410) 305-2640.

RCRA I Consent Agreement and Final Order Filed in Settlement with U.S. Air Force and the Army and Air Force Exchange Service in VA [Docket No RCRA-03-2015-0221]

On September 29, 2015, the Regional Judicial Officer entered a Final Order ratifying a Consent Agreement between EPA and the U.S. Air Force and the Army and Air Force Exchange Service (Respondents). The Consent Agreement commences and resolved EPA's claims that Respondents violated the State of Virginia's Underground Storage Tank (UST) regulations at its facility located at the Joint Langley-Eustis, 37 Sweeney Boulevard, Virginia (the Facility). Respondents will pay a civil penalty in the amount of $37,583. Contacts: Louis Ramalho, (215) 814-2681, M. Owens-Powell, (215) 814-3384.

Division Director Signs CERCLA Section 106(a) Unilateral Administrative Order for Removal Response Action at the New Kent Wood Preservatives, Inc. Site in VA [Docket No. CERC-03-2015-0262DC]

On September 30, 2015, the Division Director, Hazardous Site Cleanup Division, issued a Unilateral Administrative Order for Removal Response Action (UAO) to L-Wood, Inc. Southern Pine Specialists (Respondent) pursuant to Section 106(a) of CERCLA. The UAO directs Respondent to conduct a removal response action at the New Kent Wood Preservatives, Inc. Site in Providence Forge, New Kent County, Virginia (Site), specifically excavation and off-site disposal of soil contaminated with arsenic and chromium. The Respondent operated a wood preserving facility at the Site from approximately 1988 to 1996. Under the terms of the UAO, the Respondent is being provided an opportunity to have a conference with EPA prior to the date that the UAO becomes effective. Contacts: Gwen Pospisil, (215) 814-2678, Ruth Scharr, (215) 756-7897

Third Circuit Remands Pennsylvania Regional Haze SIP to EPA after Citizen Groups' Challenge

On September 29, 2015, the US Court of Appeals for the Third Circuit issued its opinion on the appeal of EPA's approval of the Pennsylvania Regional Haze SIP and remanded the approval to EPA for further consideration. Petitioners National Parks Conservation Association, Sierra Club, and Clean Air Council challenged EPA's April 30, 2014 limited approval of Pennsylvania's regional haze SIP claiming the SIP did not require Best Available Retrofit Technology (BART) on many sources they claim required "retrofits," failed to contain stringent emission rates on certain large emitting sources, and failed to consider cumulative visibility impacts when assessing BART. The Third Circuit's decision agreed with Petitioners that EPA had insufficiently explained why it had approved Pennsylvania's source-specific BART determinations after acknowledging that the SIP had several flaws including failure to provide detailed information on controls, cost of controls, and cumulative visibility impacts. As a result, the Court remanded our approval of Pennsylvania's BART determinations for non-electric utilities and the particulate matter BART for electric utilities for EPA to provide a satisfactory explanation. The Court however agreed with EPA that Petitioners challenges to the CSAPR is "better than BART rule" were improperly before the Court and belonged in the D.C. Circuit. Thus, the Court denied that aspect of the petition. Contacts: Donna Mastro, (215) 814-2777, Robert Stoltzfus, (215) 814-2695, Asrah Khadr, (215) 814-2071.

EPA and Apex Petroleum Corporation Enter into Chapter 11 Bankruptcy Stipulation Agreement in Final Satisfaction of Outstanding RCRA Subtitle I Penalty

On September 15, 2015, EPA and Apex Petroleum Corporation, 9701 Apollo Drive, Suite 495, Largo, MD 20774 (Apex or Debtor) entered into a Stipulation Agreement pursuant to a Plan of Reorganization ("Plan") under Chapter 11 of the U.S. Bankruptcy Code. Apex filed for bankruptcy protection under Chapter 11 in the United States Bankruptcy Court, District of Maryland (Greenbelt Division) on July 16, 2008 (Case No. 08-19212). In is Bankruptcy Petition, Apex listed EPA as a general unsecured creditor based upon a $34,143.91 debt resulting from Apex' settlement of alleged violations of RCRA Subtitle I and the District of Columbia's authorized Underground Storage Tank regulations. In the associated Consent Agreement and Final Order, EPA Region III alleged inadequate operation and maintenance of corrosion protection systems associated with three gasoline-containing underground storage tanks (USTs) at a gasoline service station and convenience store owned and operated by Apex at 2830 Sherman Avenue, N.W., Washington, D.C. 20001-3922, Facility I.D. No. 1-000075 (Docket No. RCRA-03-2007-0252). EPA did not file a proof of claim in the Chapter 11 Bankruptcy proceeding, but when Apex emerged from Bankruptcy, its Court-approved Plan allowed for distributions to be made on unsecured claims, regardless of whether a Proof of Claim had been filed, until three percent (3%) of each unsecured claim was paid. The Plan allowed for such payments to be made over many years but also enabled the Debtor and creditors to enter into alternative payment agreements without further Court approval. When Apex secured limited funding to pay some unsecured creditors in a lump sum payment, EPA entered into a September 15, 2015 Stipulation Agreement through which Apex paid $814.93 in full and final satisfaction of EPA's unsecured claim. Contacts: A.J. D'Angelo, (215) 814-2480, Carol Amend, (215) 814-5430.

Region III Files Complaint against Baldwin Hardware and SBD Property Holdings for RCRA Subtitle C Violations at Former Hardware Manufacturing Facility [Docket No. RCRA-03-2015-0243]

On September 30, 2015, Region III filed an Administrative Complaint and Notice of Opportunity for Hearing and against Baldwin Hardware Corporation and SBD Property Holdings, LLC (Collectively Respondents). Respondents previously owned and operated a door, bathroom and lighting hardware manufacturing facility located at 841 Wyomissing Boulevard, Reading, PA (the Facility). The Complaint alleges that Respondents violated RCRA, 42 U.S.C. §§ 6921-6939g, Subtitle C, because they operated a hazardous waste storage facility without having a permit or interim status. The Complaint allege the Respondents stored non-containerized lead-contaminated hazardous waste on the floors of the Facility and also stored lead-contaminated hazardous waste for periods greater than 90 days on multiple occasions. The Complaint also alleges Respondents failed to maintain an inspection schedule, keep adequate records documenting inspection findings, and failed to perform adequate inspections in order to identify and remedy facility malfunctions. For these reasons and more, the complaint alleges the Respondents failed to maintain and operate the facility in a manner that minimized the risk of release of hazardous waste into the environment and posed a risk to the environment and human health. Contacts: Natalie Katz, (215) 814-2615, Rebecca Serfass, (215) 814-2047.

Region III Files Complaint against Brenntag Northeast, Inc. for RCRA Subtitle C and SPCC Violations at Chemical Distribution Facility [Docket No. RCRA-03-2015-0240]

On September 30, 2015, Region III filed an Administrative Complaint and Notice of Opportunity for Hearing and against Brenntag Northeast, Inc. (Respondent). Respondent owns and operates a chemical distribution facility located at 81 West Huller Lane, Reading, PA (the Facility). The Complaint alleges that Respondent violated the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6921-6939g, Subtitles C, J and CC because it operated a hazardous waste storage facility without having a permit or interim status. The Complaint alleges that the Respondent stored waste solvent in two accumulation tanks and had several spills at the Facility. It also alleges that the Respondent failed to make waste determinations for several spills and Shop-Vac contents, failed to provide initial and refresher hazardous waste training to a number of employees responsible for hazardous waste management, failed to maintain adequate training and personnel records, failed to conduct and document daily hazardous waste tank inspections, failed to maintain adequate secondary containment for the two hazardous accumulation tanks, failed to provide the hazardous waste tank systems with adequate secondary containment or leak detection, failed to maintain certified integrity assessments for the two hazardous accumulation tanks, failed to provide air emission controls for one of the hazardous accumulation tanks, and failed to properly label and manages boxes of universal waste lamps. In addition, Respondent is alleged to have violated the requirements of the oil spill prevention regulations by failing to a timely and adequate SPCC plan, and failing to provide adequate secondary containment for oil storage areas. Contacts: Natalie Katz, (215) 814-2615, Garth Connor, (215) 814-3209.

EPA Issues Explanation of Significant Differences for L.A. Clarke Site in VA

On September 25, 2015 EPA issued an Explanation of Significant Differences (ESD) for the L. A. Clarke and Son Site (Site), a former creosote and coal tar wood treating facility located in Spotsylvania County, Virginia, which was placed on the CERCLA National Priorities List in 1986. This ESD revises certain aspects of the 1988 Record of Decision for the Site. Specifically, the ESD: revises the surface soil clean-up levels (human health and ecological); revises the institutional controls necessary to ensure long-term protectiveness at the Site; clarifies the requirement to address site security through fencing and signage to limit access and warn the public as a component of the selected remedy; and eliminates the requirement for a soil cover. Contact: Charles B. Howland, (215) 814-2645.

OGC Issues

Pennsylvania Federal Court Denies Citizen Groups' Motion to Reconsider the Court's Decision to Grant EPA's Motion to Dismiss CWA Mandatory Duty Lawsuit

On September 28, 2015, the U.S. District Court for the Eastern District of Pennsylvania denied Plaintiffs' motion asking the court to reconsider its earlier decision granting EPA's motion to dismiss. In the complaint, filed on March 12, 2014, Plaintiffs Pine Creek Valley Watershed Association, Raymond Profit Foundation and the Delaware Riverkeeper claimed that a new Pennsylvania law known as Act 41, concerning the application of the antidegradation policy to the septic tanks, constituted a new or revised water quality standard, which EPA had a duty to review under CWA 303. The National Association Homebuilders intervened on the suit on behalf of EPA.

In its decision on the motion for reconsideration, the court found the term "new or revised water quality standard" to be ambiguous in the CWA and in the regulations. The court deferred to EPA in interpreting its own regulations to determine whether Act 41 is a new or revised WQS. The court summarized EPA's interpretation as follows: "[A revision] triggers [CWA 303] review as a revised standard only when it directly alters a constituent element of an existing standard through proper procedural channels." Finding that EPA's interpretation of its regulations was reasonable, the court denied the motion. Contacts: Nina Rivera, (215) 814-2667, Alexis Wade, (202) 564-3273.

Region 4

Regular Highlights:

Enforcement and Compliance Assurance Issues

Region 4 Enters into a Consent Agreement and Final Order with B & J Oil Company, Inc., Settling Violations of the SDWA

On September 3, 2015, the Regional Judicial Officer approved a CA/FO between Region 4 and B & J Oil Company, Inc., (Respondent) resolving EPA's allegations that Respondent violated the Safe Drinking Water Act (SDWA), 42 USC § 300f, and the UIC regulations. The violations stem from Respondent's failure to timely demonstrate mechanical integrity and to timely submit fluid analysis on one injection well, which it owns and/or operates, in Green County, Kentucky. Pursuant to the terms of the CA/FO, Respondent will pay a civil penalty of $5,000. Respondent had conducted the mechanical integrity testing and provided up to date fluid analysis prior to the EPA show cause meeting. Contact: Wilda W. Cobb, (404) 562-9530; Tony Shelton, (404) 562-9636.

Region 4 Enters into a Consent Agreement and Final Order with Tony Estes Settling Violations of the SDWA

On September 3, 2015, the Regional Judicial Officer approved a CA/FO between Region 4 and Tony Estes (Respondent) resolving EPA's allegations that Respondent violated the SDWA, 42 USC § 300f, and the UIC regulations. The violations stem from Respondent's failure to timely demonstrate mechanical integrity and to timely submit monitoring reports on one injection well, which he owns and/or operates, in Metcalfe County, Kentucky. Pursuant to the terms of the CAFO, Respondent will pay a civil penalty of $5,000. Also, within 60 days of receipt of the CAFO, Respondent will demonstrate the mechanical integrity of the injection well or close, plug and abandon the well and provide current monitoring reports. Contact: Wilda W. Cobb, (404) 562-9530; Tony Shelton, (404) 562-9636.

Region 4 Issues an Administrative Order to Logsdon Valley Oil Company, Inc. Under the Safe Drinking Water Act

On September 17, 2014, Region 4 issued an Administrative Order (AO) under Section 1423(c) of the Safe Drinking Water Act (SDWA) to Logsdon Valley Oil Company, Inc. (Respondent). During an inspection in Hart County, Kentucky, an EPA inspector discovered a buried PCV injection line leading from a tank battery, where produced fluids from crude oil production were stored, to an illegal injection well. Upon learning that EPA had discovered the illegal injection well, Respondent attempted to plug the well. The Respondent provided information to the Region on the manner in which he plugged the well, and this information showed that closure of the well was inconsistent with EPA guidance and standard industry practices. Failure to properly close a well may result in movement of contaminated fluids into underground sources of drinking water. The AO requires the Respondent to re-open the well and then to properly close, plug, and abandon the well according to an EPA-approved plugging and abandonment plan. Contact: Wilda W. Cobb, (404) 562-9530; Carol Chen, 404-562-9838.

Region 4 Files Consent Agreement and Final Order with Drew St. John for CWA Wetlands Violations

On September 30, 2015, the EPA finalized a CA/FO between the EPA and Mr. Drew St. John (Respondent). The Respondent discharged dredged and/or fill material into jurisdictional wetlands using earth moving machinery during establishment of a wildlife food plot without authorization of a CWA Section 404 permit. The Respondent's unauthorized activity impacted approximately 6.44 acres of forested wetlands that abut an unnamed tributary that flows to Dowling Bayou, a navigable water of the United States located in Sharkey County, Mississippi. The CA/FO addresses civil penalties for the Respondent's CWA Section 301 violation. Under the CA/FO, the Respondent will pay the EPA a civil penalty of $15,000. Contact: Suzanne Armor, (404) 562-9701.

Region 4 Files Consent Agreement and Final Order with Protech Metal Finishing, LLC for EPCRA Section 312 Violations

On September 29, 2015, the EPA finalized a CA/FO between the EPA and Protech Metal Finishing, LLC (Respondent). The Respondent failed to submit a completed Emergency and Hazardous Chemical Inventory Form for nitric acid, hydrogen fluoride, sulfuric acid, sodium dichromate, and sodium hydroxide solution to the Tennessee State Emergency Response Commission, Local Emergency Planning Committee, and the fire department with jurisdiction over the Respondent's facility for calendar year 2012 by the required deadline, as required by Section 312 of the EPCRA. The CA/FO addresses civil penalties for the Respondent's EPCRA Section 312 Violations. Under the CA/FO, the Respondent will pay the EPA a civil penalty of $1,500. Contact: Suzanne Armor, (404) 562-9701.

Region 4 Files Three Consent Agreement and Final Orders with Beazer Homes to Resolve CWA Violations

On September 29, 2015, the EPA finalized three CA/FOs between the EPA and Beazer Homes USA, Inc. (Beazer), requiring Beazer to pay a total of $48,700 in order to resolve civil penalty enforcement actions for failing to comply with various provisions of its construction stormwater permits at the Estates at Bentley Ridge, Trammel Ridge, and Vistas at Castleberry residential construction sites located in Cumming, Georgia. The CAFOs constitute an administrative resolution of CWA claims that arose after Beazer entered into a national homebuilder Consent Decree with the United States in 2011. Contact: Matthew Hicks, (404) 562-9670.

Region 4 Files Two Consent Agreement and Final Orders with Ryland Homes to Resolve CWA Violations

On September 29, 2015, the EPA finalized two CA/FOs between the EPA and The Ryland Group, Inc., d/b/a Ryland Homes (Ryland), requiring Ryland to pay a total of $36,000 in order to resolve civil penalty enforcement actions for failing to comply with various provisions of its construction stormwater permits at the Bridleton South and Lenox Overlook residential construction sites located in Suwanee, Georgia, and Brookhaven, Georgia, respectively. The CA/FOs constitute an administrative resolution of CWA claims that arose after Ryland entered into a national homebuilder Consent Decree with the United States in 2012. Contact: Matthew

Hicks, (404) 562-9670.

Court Approves Ryland's Motion to Terminate its National Homebuilder Consent Decree with the United States

On September 11, 2015, the U.S. District Court for the Western District of North Carolina approved a motion to terminate the July 2012 national homebuilder consent decree between the United States, various state plaintiffs, and The Ryland Group, Inc., d/b/a Ryland Homes (Ryland). Ryland filed the motion to terminate pursuant to Paragraphs 72 and 73 of the consent decree, which outline the conditions and procedures for termination. The conditions for termination include, but are not limited to: passage of three years; payment of all civil and stipulated penalties; establishment/implementation of a stormwater compliance management system and training and orientation program; certification that builder has applied for or received permit coverage for all sites; and the submission of all National Reports. Despite continuing reservations concerning on-the-ground compliance, EPA concluded that Ryland met the specific conditions for termination set forth in the consent decree and recommended that the United States not oppose Ryland's motion to terminate. Contact: Matthew Hicks, (404) 562-9670.

Region 4 Files Consent Agreement and Final Order Resolving RCRA Violations with Century Aluminum Sebree LLC

On September 29, 2015, Region 4 finalized a CA/FO with Century Aluminum Sebree LLC (Century Aluminum) to resolve violations of RCRA that were discovered during a compliance evaluation inspection that inspectors from EPA and the Kentucky Department for Environmental Protection (KDEP) conducted on July 23 and 24, 2014. Century Aluminum is the owner and operator of a facility located in Robards, Kentucky that manufactures aluminum using an aluminum smelter. The violations resolved include the failure to: (1) label and keep containers of hazardous waste closed, and maintain containers with sufficient aisle space; (2) train appropriate personnel; (3) comply with emergency response preparation requirements; (4) operate the facility in a manner that minimizes the possibility of a release; (5) fulfill reporting requirements; (6) comply with used oil requirements; and (7) comply with universal waste management requirements. Pursuant to the terms of the CA/FO, Century Aluminum will pay a civil penalty of $69,000 and will perform a sampling investigation to determine the nature and extent of any hazard posed from hazardous waste that may have been released at or from the facility. Contact: Joan Redleaf Durbin (404) 562-9544; Alan Newman, (404) 562-8589.

Region 4 Sends Special Notice Letters for Performance of RI/FS at Macon Naval Ordnance Plant Superfund Site

On September 22, 2015, EPA Region 4 sent Special Notice Letters together with a draft Administrative Settlement Agreement, and draft Scope of Work for performance of a Remedial Investigation and Feasibility Study (RI/FS) to twelve Potentially Responsible Parties (PRPs) for the former Macon Naval Ordnance Plant Superfund Site (the Site). The Site is located on approximately 433 acres in Macon, Georgia. The PRPs include the Department of Defense (U.S. Navy), and other former owner/operators at the Site. The PRP's also include current Site owners consisting of the City of Macon, and the Macon-Bibb County Industrial Authority, among others. The PRPs have 60 days to negotiate performance of the RI/FS which may be extended for an

additional 30 days if the PRPs provide EPA with a good faith offer to conduct or finance the response action and reimburse EPA for costs incurred to date.

The Site and was constructed by the Reynolds Corp. to produce munitions for the U.S. Navy. In 1945, the U.S. Navy purchased the Site for munitions production, and in 1965 it sold the property to Maxson Electronics Corp. In 1973, Maxson sold the property to Allied Chemical Corp. In 1980, Allied sold the Site to the Macon-Bibb County Industrial Authority (MBCIA), which renamed the property Allied Industrial Park and currently leases or sells property. Current owners which purchased parcels of property on the Site prior to the enactment of the Brownfields Revitalization Act of January 11, 2002, include the City of Macon, and the MBCIA, among others. The Central of Georgia Railway Co. previously owned and operated a portion of the Site where raw materials were supplied to the facility. Soil contamination at the Site consists of polychlorinated biphenyls (PCBs), metals, and pesticides. Ground water beneath the Site is contaminated with high levels or trichloroethylene and its breakdown products. Groundwater flow at the Site is toward Rocky Creek, and the fish in Rocky Creek have been found to contain PCBs. Since 2011, EPA has advised the public not to consume any fish from Rocky Creek. Contact: Deborah Benjamin, (404) 562-9561; Melissa Waters, (404) 562-8873; Brian Farrier, (404) 562-8952.

Region 4 Sends Special Notice Letters for Performance of RI/FS at Armstrong World Industries, Operable Unit 2, Superfund Site

On September 22, 2015, EPA Region 4 sent Special Notice Letters together with a draft Administrative Settlement Agreement, and draft Scope of Work for performance of a Remedial Investigation and Feasibility Study (RI/FS) to seven Potentially Responsible Parties (PRPs) for Armstrong World Industries (AWI), Operable Unit 2, Superfund Site (the Site). The Site is located on approximately 20 acres in Macon, Georgia and consists of two contiguous landfills including drainage ditches to and from the landfills, and the sediment and biota in and around Rocky Creek (directly south of the landfills in the direction of groundwater flow). The PRPs include the Department of Defense (U.S. Navy), and other former owner/operators at the Site. The PRP's also include current and former Site owners consisting of AWI, the City of Macon, the Macon-Bibb County Industrial Authority, and the Macon Water Authority (MWA). The PRPs have 60 days to negotiate performance of the RI/FS which may be extended for an additional 30 days if the PRPs provide EPA with a good faith offer to conduct or finance the response action and reimburse EPA for costs incurred to date.

AWI has owned the property where one of the landfills is situated since 1959, and began disposing of industrial trash in it in the mid-1960s. In 1971, it constructed a waste water treatment plant and disposed of fibrous waste material removed from that plant's filters in this landfill. The City of Macon owned the property where the other landfill is situated in the early 1940s when the U.S. Navy and the Reynolds Corp. first started using it as a landfill. In 1960, the U.S. Navy acquired this landfill, and in 1965 sold it to Maxson Electronics Corp. In 1973, Riker-Maxson Corp. sold this landfill to the Allied Chemical Corp. In 1980, Allied Chemical Corp. sold this landfill to the Macon-Bibb County Industrial Authority (MBCIA). In the 1980s the MBCIA sold this landfill to the Macon-Bibb County Water & Sewerage Authority which is

currently called the MWA.

Soil samples collected from both landfills have been found to contain high levels of volatile organic compounds, semi-organic compounds, polychlorinated biphenyls (PCBs), metals, and pesticides. Drainage pathways from the landfills to Rocky Creek have been found to contain elevated concentrations of PCBs and metals. The fish in Rocky Creek have been found to contain PCBs, and since 2011, EPA has advised the public not to consume any fish from Rocky Creek. Contact: Deborah Benjamin, (404)562-9561; Melissa Waters, (404)562-8873; Brian Farrier, (404)562-8952.

Region 5

Regular Highlights:

Enforcement and Compliance Assurance Issues

Region 5 Files a Consent Agreement and Final Order for Buckeye Recycling, Inc

On September 29, 2015, Region 5 of the U.S. Environmental Protection Agency filed a consent agreement and final order issued to Buckeye Recycling, Inc., of Columbus, Ohio, resolving an administrative penalty action for alleged violations of Section 608 of the Clean Air Act, 42 U.S.C. § 7671g, and the Regulations for the Protection of Stratospheric Ozone, Recycling and Emissions Reduction, 40 C.F.R. Part 82, Subpart F. These Clean Air Act regulations require, among other things, that recyclers of small appliances and motor vehicle air conditioners verify that any refrigerant contained in an appliance is appropriately recovered and not released to the environment. If released to the air, chemical refrigerants commonly used in appliances and motor vehicle air conditioners, like chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs), can damage the ozone layer, part of Earth's atmosphere which blocks harmful radiation from reaching the planet's surface. These chemicals are also potent greenhouse gases. Buckeye operates a scrap yard in Columbus, Ohio, and failed to either recover the refrigerant from appliances or verify that the person from whom they accepted the appliances had done so.

Buckeye will pay a negotiated penalty of $9,000 to settle the violations. Contact: Erik Olson, primary contact 312-886-6829; Natalie Topinka, additional contact 312-886-3853.

EPA Region 5 Enters Into an Administrative Consent Order Resolving CAA Violations by M.I.P., Inc.

On September 29, 2015, Region 5 entered into an Administrative Consent Order (ACO) with M.I.P., Inc. addressing violations of the Clean Air Act National Emission Standards for Hazardous Air Pollutants (NESHAP). M.I.P., Inc. is engaged in electroless plating and chromate conversion coating at a facility it owns and operates in Youngstown, Ohio. The ACO finds that M.I.P., Inc. violated the NESHAP for Area Source Standards for Plating and Polishing Operations found at 40 C.F.R. Part 63, Subpart WWWWWW by failing to submit certain compliance notifications and failing to demonstrate continuous compliance. M.I.P., Inc. has agreed to submit its initial notification and notification of compliance status by November 1, 2015. Additionally, M.I.P., Inc. must prepare an annual certification of compliance by January 31 of each year, and it must submit its 2015 annual certification of compliance by February 28, 2016. Contact: Christopher Grubb, primary contact 312-886-7187; Raymond Cullen, additional contact 312-886-0538.

Region 5 Enters into Consent Agreement and Final Order Resolving Alleged Violations of RCRA with Actavis, Inc

On September 28, 2015, Region 5 filed a Consent Agreement and Final Order ("CAFO") commencing and concluding an action against Actavis, Inc. ("Actavis"). It is a global manufacturer and distributor of pharmaceutical products and is listed on the New York Stock

Exchange. Actavis owns and operates a warehouse and distribution facility at 605 Tri-State Parkway, Gurnee, Illinois, that handles smoking cessation products, including off-specification nicotine chewing gum. Actavis allegedly violated the Resource Conservation and Recovery Act ("RCRA") by failing to: (1) make a proper hazardous waste determination for off-specification nicotine chewing gum products in violation of 40 C.F.R. § 262.11, (2) designate a permitted hazardous waste disposal facility on manifests accompanying shipments of the material sent for disposal in violation of 40 C.F.R. § 262.20(b), (3) submit annual reports to the State of Illinois in violation of 40 C.F.R. § 262.41(a), and (4) provide hazardous waste training for employees as required by 40 C.F.R. § 265.16(a), in violation of 40 C.F.R. Part 270 and Section 3005 of RCRA, 42 U.S.C. § 6925(a). Nicotine is a RCRA-listed hazardous waste (P075), and an acute hazardous waste under 40 C.F.R. § 261.33(e). Actavis will pay $30,800 to resolve the alleged violations. Contacts: Kevin Chow, ORC, (312) 353-6181; Robert Smith, LCD, (312) 886-7568.

Government Files Objections to Magistrate's Report and Recommendation for Former Vermont School Superfund Site Access Litigation

On September 28, 2015, the government filed objections to the Magistrate's September 14, 2015 Report and Recommendation in *United States v. Gearing*, No. 1:15CV0133 (C.D. Ill.). On September 14, 2015 U.S. Magistrate Jonathon E. Hawley issued a Report and Recommendation in *United States v. Donna Gearing*, Case No. 1:15CV01333, C.D. Ill., Peoria Division, finding EPA arbitrary and capricious and recommending that the court deny the government's Motion for Order in Aid of Immediate Access. EPA referred this matter for an order in aid of access on June 30, 2015, after Magistrate Hawley expressed reservations about his authority to issue an ex parte warrant on June 9, 2015, based on language in the Seventh Circuit's decision in *United States v. Tarkowski*, 248 F.3d 596 (7th Cir. 2001). The Magistrate's September 14, 2015 report questions the significance of results of sampling Illinois EPA conducted in May 2013, which EPA relied on to make its endangerment and time-critical removal determinations. It focuses on the percentage of asbestos found in the 14 samples the State took in 2013, the time that elapsed since those samples were taken, the OSC's assertion that the building might also contain lead-based paint and mercury, and EPA's decision to forgo issuing an access order or a remediation order.

The Magistrate reads the language at CERCLA Section 9604(B)(5)(A) and (B) to suggest EPA must first issue an order and, should an owner refuse to comply, then seek enforcement of its order with the court; then reads *Tarkowski* and *United States v. Charles George Trucking Co.*, 682 F. Supp. 1260 (D. Mass 1988) to rely on subsection (e)(6) to allow EPA to bypass issuance of its own administrative order and seek an access order directly from the court. He focuses on language in *Tarkowski* that when the Agency invokes access authority to undertake remedial measures, the court cannot perform its duty of determining whether the agency's proposed action is arbitrary or capricious without considering whether the measures proposed are a reasonable basis for authorizing what would otherwise be a trespass. *Tarkowski*, 248 F.3d 596, 601-602 (7th Cir. 2001). Reading Judge Ripple's observation in the concurring opinion, that by suggesting EPA's remediation request must be reasonable, the decision implies there must be a proportionality between the investigative results and the proposed plan, he concludes that in order to pass muster, EPA's remediation request must be reasonable, such that there is a

proportionality between the investigative results and the proposed plan, once EPA has established the other prerequisites required by CERCLA.

The Magistrate acknowledges the showing made in this case is greater than in *Tarkowski*; but says it cannot be accurately characterized as substantial, noting that the testing performed was completed over two years ago, and rubble counting the contaminants have been open to the elements, moved and possibly removed by Thomason. He minimizes the sampling results, noting the nine positive results came from only two areas, the boiler and the basement, and observing only three of them came back at 70 to 80 percent chrysotile asbestos, while others contained less than 20 percent and as low as 3 to 5 percent. The report says that if all EPA sought was access to perform more testing to obtain a more accurate picture of the nature and extent of any contamination, it would easily have met its burden, but because EPA was also seeking an order allowing remediation, the court needed to examine the nature and degree of demonstrated contamination form the testing to balance the proportionality of the remediation against the investigative results. Characterizing the potential of EPA's remediation to go so far as demolishing the building, removing all debris and covering what was once a school building with vegetation, thereby obliterating all trace of the former building based on two-year old tests from a couple of piles of debris, the Magistrate said "there can be no more extreme of a remedy than this," and says a dump truck could haul away a few piles of debris. He concludes such broad remedial authority on such thin evidence of contamination is not "proportional" and consequently the proposed remedy based upon the evidence it currently has is arbitrary or capricious. He also acknowledges that neither Defendant filed a response, but cites the court's independent duty to determine whether the grant of EPA's motion is proper as a matter of governing law.

Action Taken or Pending: The Objections the Government filed on September 28, 2015 point to the volume of material sampled (a debris pile measuring 96 $ft.^3$ in the boiler room, and floor tile debris from a 1,800 $ft.^2$ basement); the friable nature of that material; the significance of the samples exceeding 1% asbestos content; the condition of the structure, which is missing its ceiling and most walls; the proximity of residences; the OSC's April 2014 site visit following the State's February 2014 referral; recent photographs of the Site; the activities of Mr. Thomason, whom it seeks to restrain from interfering with the removal, that would aggravate the risks; the requirements for properly handling the ACM; EPA's authority under CERCLA Section 104(e)(5) to seek compliance with its request for access; EPA's practice of checking for additional contaminants exceeding action levels in the course of conducting the removal required to address the threats to the environment, here from asbestos; and the reasonableness and proportionality of the activities proposed, including the potential necessity of some demolition, even for sampling, given the condition of some of the walls remaining. Contact: Maria Gonzalez, Associate Regional Counsel, 312-886-6630.

Region 5 Enters into Consent Agreement and Final Order Resolving Alleged Violations of the CAA with Glenn Hunter and Associates, Inc

On September 25, 2015, Region 5 filed a Consent Agreement and Final Order ("CAFO") commencing and concluding an action against Glenn Hunter and Associates, Inc. ("GHA"), an Ohio corporation that owns and operates a refractory recycling and mineral processing plant at

1286 County Road 6, Delta, Fulton County, Ohio. GHA allegedly violated the Clean Air Act by operating a rotary dryer without also properly operating a baghouse and a continuous monitoring system, which is a violation of the New Source Performance Standards ("NSPS"), specifically the Standards of Performance for Calciners and Dryers in Mineral Industries at 40 C.F.R. Part 60, Subpart UUU ("Subpart UUU"). GHA also failed to comply with the NSPS Standards of Performance for Nonmetallic Mineral Processing Plants at 40 C.F.R. Part 60, Subpart OOO ("Subpart OOO"), by exceeding permit limits for particulate matter at a mixing and weighing area crush house baghouse. GHA will pay $60,325 (interest included) over twelve monthly installments to resolve the alleged violations. GHA has also agreed to enter into an administrative compliance order which requires GHA to comply with the requirements of its Permit and all requirements of the NSPS at Subpart OOO and Subpart UUU, including installation of a baghouse and continuous opacity monitoring system, performance of emission testing at two baghouses, retirement of additional units, and performance of visible emission evaluations and opacity tests. Contacts: Kevin Chow, ORC, 312-353-6181; Gina Harrison, ARD, 312-353-6956.

I Schumann & Co. LLC

On September 25, 2015, the U.S. Environmental Protection Agency, Region 5 filed a Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk that simultaneously commences and concludes, under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), alleged violations of the provisions in the National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources (Subpart TTTTTT), the Ohio State Implementation Plan (SIP) and permit requirements with I Schumann & Co. LLC (I Schumann). Respondent I Schumann owns and operates a secondary nonferrous metals processing facility in Bedford, Ohio. EPA alleges that I Schumann violated the NESHAP Subpart TTTTTT by its failure to conduct performance testing, late and incomplete reporting, and failure to maintain a bag house leak detection system, and violated the SIP and its permits by its failure to adequately capture and control emissions from its furnaces. Under the terms of the CAFO, I Schumann agrees to pay $40,000 as a penalty, and to perform a supplemental environmental project to abate lead-based paint hazards in a number of residential properties and day care facilities in or about the Cleveland, Ohio area, at a cost of $125,000.
Contacts: Alexandra Letuchy and Dakota Prentice, Air and Radiation Division, 312- 866-6035 and 312- 886-6761, respectively, and Mary McAuliffe, Office of Regional Counsel, 312-886-6237.

EPA Issues an Administrative Consent Order to The Sawbrook Steel Castings Company

On September 25, 2015, Region 5 issued an Administrative Consent Order (ACO) to Sawbrook Steel Castings Company located in Cincinnati, Ohio (Sawbrook). The ACO resolves violations (alleged in a June 12, 2015 Finding of Violation) of the General Provisions to 40 C.F.R. Part 60 and the Standards of Performance for Calciners and Dryers in Mineral Industries (40 C.F.R. Part 60, Subpart UUU) at Sawbrook's Sand Reclamation Unit. The ACO requires Sawbrook to submit outstanding notifications and conduct performance testing in accordance with the methods and procedures in Subpart UUU. The ACO also establishes a monitoring program utilizing EPA Reference Method 22 and pressure drop readings across the baghouse associated

with the sand reclamation unit, describes a corrective action plan to address visible emissions and deviations of pressure drop, and requires Sawbrook to maintain records and submit reports required by Subpart UUU. Sawbrook is located in an Environmental Justice area of concern and was inspected as part of the Cincinnati community focus group. Contacts: John C. Matson, ORC: 312-886-2243 and Kevin Vuilleumier, ARD: 312-886-6188

U.S. EPA enters into Administrative Settlement Agreement and Order on Consent with North Shore Gas for remedial design of the selected remedy at former MGP site

North Shore Gas (NSG) operated two manufactured gas plants (MGP) in Waukegan, Illinois. One of these locations was at 2 North Pershing Road and 1 South Pershing Road, Waukegan, Lake County, Illinois, encompassing approximately 23 acres and was known as the South Plant Station. In July 2007, U.S. EPA and NSG entered into an Administrative Settlement Agreement and Order on Consent (AOC) that required NSG to conduct a Remedial Investigation/Feasibility Study at both the South Plant and the North Plant former MGP sites in Waukegan (Docket No. V-W-07-C-877). On September 24, 2015, the U.S. EPA signed an Administrative Settlement Agreement and Order on Consent with NSG. Pursuant to the terms of the AOC, NSG agreed to conduct the remedial design of the remedy selected by U.S. EPA in its July 30, 2015 Interim ROD for the South Plant Site and to pay U.S. EPA's oversight costs. Contact: Peter Felitti, 312-886-5114.

Region 6

Regular Highlights:

Enforcement and Compliance Assurance Issues

Yousef Abuteir – Southern District of Texas & State of Texas – Criminal Case Prisoner Extradition, Transfer & Pending State & Federal Prosecution

On September 25, 2015, Abuteir was transported from Harris County, Texas to Travis County, Texas for additional prosecutions and sentencing related to his December 2008 jury conviction in the 331st District Court for violating Cause #D1-DC-07-900187 (Evading Motor Fuels Taxes), for which the State of Texas has already imposed a sentence of 7 years. Abuteir will also be tried in the 331st District Court of Travis County, Texas for bail-jumping. After completing his term of imprisonment for the State of Texas, he will be transported to the Southern District of Texas and sentenced pursuant to his April 2008 plea agreement for violating 18 USC § 371 (Conspiracy). On September 17, 2015, the State of Israel officially transferred custody of Abuteir to the United States. Contact: Rusty Herbert (281) 983-2218.

Baddley Chemicals, Inc. Signs Consent Agreement and Final Order for RCRA Violations

On September 23, 2015, EPA Region 6 issued a Consent Agreement and Final Order (CAFO) under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA) to Baddley Chemicals, Inc. for violations at its Louisiana facility for the production of industrial chemicals. The Order addressed violations of RCRA requirements for incorrectly reporting the facility's status as a generator of hazardous waste and failing to operate within the facility's reported generator status. The CAFO includes an order requiring Baddley Chemicals to implement measures to come into compliance, and it requires payment of a civil administrative penalty of $51,000 within thirty days. Contact: Brian Tomasovic (214) 665-9725.

District Court Denies CITGO Petroleum's Motion to Strike Proposed Findings of Fact and Conclusions of Law in OPA Enforcement Action

On September 28, 2015, the U.S. District Court, Western District of Louisiana, denied Defendant's Motion to Strike the Post-Appeal Findings of Fact and Conclusions of law filed by the U.S. The U.S. Post-Appeal Proposed Findings of Fact and Conclusions of Law stem from the U.S. prior motion to enforce the Court's August 29, 2011 order granting its request for injunctive relief for CITGO's facility in Lake Charles, Louisiana.

On or about June 19 and 20, 2006, a mix of waste water, storm water and slop oil overflowed from CITGO's waste water system holding tanks into its secondary containment berm. Of that mix, at least 53,000 barrels of slop oil were released from the containment and into the Indian Marais waterway, the Calcasieu River and the Calcasieu Ship Channel. The cause of the spill was a heavy rainfall event that allowed the slop oil to overflow from the waste water tanks into the containment area and into the above-mentioned waters. The United States and the State of Louisiana filed a complaint requesting civil penalties in an amount up to $1,100 per barrel of oil discharged or, if gross negligence or willful misconduct is found, an amount up to $4,300 per

barrel of oil discharged. The complaint also seeks an order pursuant to the Clean Water Act requiring CITGO to take all appropriate action to prevent future discharges of oil into waters of the United States. After trial, the District Court issued a civil penalty amount of $6,000,000, and granted injunctive relief in 2011. The U.S. appealed the penalty asserting that it was unreasonably low. The injunctive relief provision was not appealed.

On July 17, 2013, the 5th Circuit Court vacated and remanded the District Court's 2011 Order assessing the civil penalty. The injunctive relief provision of the District Court's 2011 order was not addressed since it was not appealed. Contact: Edwin Quiñones, (214) 665-8035.

Former Asarco El Paso site Approaches Sale

As remediation winds down at the Asarco site in El Paso, Texas, the Trustee, TCEQ and EPA have met regarding potential sale of the property. As reported in El Paso area papers, the University of Texas at El Paso and an unidentified commercial entity have expressed intent to purchase. The Trust, EPA, and TCEQ have agreed that the proceeds from the sale of the property will remain in a segregated account to fund ongoing environmental actions, including maintenance of several landfills. The state and federal agencies likely will continue to approve the annual budget for environmental actions after sale of the property. Contact: Jay Przyborski, (214) 665-6605.

U.S., et al. v. Guardian Industries Corp. (Case 2:15-cv-13426-MAG-MJH, U.S.D.C., E.D., Michigan)

On September 29, 2015, the United States of America (the Plaintiff), on behalf of EPA, and the State of Iowa, the State of New York, and the San Joaquin Valley Unified Air Pollution Control District (the Plaintiff-Intervenors), filed a Complaint and lodged a Consent Decree (CD) in the U.S. District Court for the Eastern District of Michigan, addressing a global settlement of Clean Air Act (CAA) violations at eight float glass manufacturing plants owned/operated by Guardian Industries Corp. (the Defendant). These eight plants are located in Carleton, MI; Corsicana, TX; Floreffe, PA; DeWitt, IA; Geneva, NY; Richburg, NC; and Kingsburg, CA (there are two floating glass lines at Kingsburg). The CAA violations consist of major modifications that occurred at these eight plants without having obtained a Prevention of Significant Deterioration permit as required by 42 U.S.C. § 7475 and 40 C.F.R. § 52.21. This settlement was part of the Glass Plant New Source Review National Initiative. After a 30-day public comment period and final court approval, the CD will resolve the alleged violations at the Guardian Industries' plants listed above.

Under the terms of the proposed settlement, Guardian Industries will install air pollution control equipment so that all eight of its float glass furnaces will control emissions of NO_X, SO_2, and PM at an estimated cost of $70.6 million. (The Corsicana, Texas furnace's estimated cost is about $9 million.)

Upon full implementation of the CD, NO_X emissions will be reduced by more than 6,400 tons per year (TPY); SO_2 emissions by more than 550 TPY, PM emissions by more than 200 TPY, and H_2SO_4 by 140 TPY. The Corsicana facility will see reductions of about 900 TPY for NOx,

about 100 TPY for SO2, and about 15 TPY for PM. CEMS for NOx and SO2 will be installed. PM compliance will be determined by annual stack tests. Guardian will pay a civil penalty of $312,000 to be split as follows: $156,000 to the United States, $78,000 to the State of Iowa, and $78,000 to the State of New York. Contacts: Carlos Zequeira (214) 665-8053; Raymond Magyar (214) 665-7288.

United States and State of Texas v. Harris County Municipal Utility District No. 50 ("HCMUD50") U.S. District Court Southern District of Texas Harris County, Texas

On September 23, 2015, DOJ lodged a Notice of Lodging of Agreeement and Order Regarding Modification of the Consent Decree pending Solicitation of Public Comments in the U.S. District Court Southern District of Texas. The parties have agreed to modify a consent decree that was entered on September 22, 2000. Pursuant to the modification agreement, HCMUD50 has agreed to make additional repairs to its sewer collection system, to reduce flows to its waste water treatment plant, and to construct an additional waste water treatment plant. All repairs and construction shall be concluded by December 31, 2016. The purpose for the modification is to address continued unauthorized discharges of pollutants and effluent limit violations by HCMUD50. Contacts: Alan Vaughn, (214) 665-7487, Efren Ordoñez, (214) 665-2181.

Region 6 Files CAFO Resolving Permit Violations by K-Solv, L.P

On September 29, 2015, EPA Region 6 filed a Consent Agreement and Final Order (CAFO) pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(1), involving K-Solv, L.P.'s petrochemical products storage and distribution facility ("Facility") in Channelview, Texas. The CAFO resolves permit violations that include failure to vent acetic acid through a water scrubber, failure to keep complete records, and failure to obtain approval to use an alternative method of monitoring for leaks of VOC. In addition to returning to compliance prior to the filing of the CAFO, K-Solv has voluntarily completed numerous facility upgrades, including the replacement of over 30 storage tanks, installation of a new carbon adsorption system for control of VOC emissions, and implementation of a comprehensive electronic recordkeeping system. Pursuant to the CAFO, K-Solv agreed to pay a civil penalty of $51,000 within 30 days to resolve the violations. Contact: Justin Lannen, (214) 665-8130.

OGC Issues

Administrator Signs Order Responding to Petitions Requesting EPA Objection to CAA Title V Operating Permits for the Shell Chemical Plant and Shell Oil Refinery, co-located in Deer Park, Harris County, Texas

On September 24, 2015, EPA Administrator signed an Order granting in part and denying in part two petitions filed in May 2014 by Environmental Integrity Project, Sierra Club, and Air Alliance Houston (Petitioners). The petitions requested EPA objection to the Title V operating permits issued by the Texas Commission on Environmental Quality to the Shell Deer Park Chemical Plant and the Shell Deer Park Refinery. EPA granted Petitioners' claims: (1) that the permitting record is inadequate regarding which permits-by-rule (PBRs) apply to which emissions units or apply site-wide; (2) that the proposed Chemical Plant permit fails to clearly identify what monitoring, recordkeeping and reporting requirements apply to the pyrolysis

furnaces; (3) that the permitting record does not show what monitoring methods assure compliance with the VOC and benzene limits for the storage tanks and wastewater treatment plant at the Refinery and Chemical Plant; and (4) that the permitting record is inadequate in explaining why six changes authorized by PBRs have not been incorporated into an NSR permit. However, EPA denied Petitioners' claims: (1) that use of incorporation by reference of minor new source review permits into the proposed Title V permits fails to assure compliance with the CAA; (2) that the proposed permits fail to assure compliance with flare monitoring requirements; (3) that the proposed permit for the Refinery impermissibly uses the permit shield provisions; (4) that the proposed permits fail to include a compliance schedule for qualified facility changes; and (5) that the proposed permits must be revised to specifically state that credible evidence may be used. Finally, some of the claims raised in the petitions were denied because they were not raised with reasonable specificity during the comment period and one claim was denied because it is now moot. Contact: Rick Bartley, (214) 665-8046.

Regular Highlights:

Enforcement and Compliance Assurance Issues

Region 7 enters Consent Agreement and Final Order with Iowa Fertilizer Company, Iowa Fertilizer Company, LLC, and Orascom E&C USA, Inc. for CWA Section 402 violations
On September 24, 2015, a Consent Agreement and Final Order was entered with Iowa Fertilizer Company, Iowa Fertilizer Company, LLC and Orascom E&C USA, Inc. The CAFO resolves the Respondents' violations of a construction stormwater permit issued by the Iowa Department of Natural Resources related to the construction of a new fertilizer plant near Wever, Iowa. The alleged violations were based on findings during inspections by IDNR and EPA in 2013 and 2014, respectively. The alleged violations include unauthorized discharges of sediment, failure to implement best management practices to prevent discharges, and failure to properly conduct inspections and take corrective actions to prevent unauthorized discharges. Information gathered from an Information Request and certification by the Respondents indicates the Site is currently in compliance. The CAFO requires that the Respondents pay an $80,689 penalty. Contact: Howard Bunch, 913-551-7879.

Region 8

Regular Highlights:

Enforcement and Compliance Assurance Issues

Region 8 Issues Administrative Order to Knapp's WYCOLO Lodge for SDWA Violations in Albany County, Wyoming

Knapp's WYCOLO Lodge Public Water System (System), located in Albany County, Wyoming, serves approximately 75 individuals daily at least 60 days of the year using a groundwater source. On September 23, 2015, Region 8 issued an administrative order alleging that the System violated EPA's National Primary Drinking Water Regulations regarding nitrate and coliform monitoring requirements, as well as associated public notice and reporting requirements. The EPA, rather than the State of Wyoming, took this action because Wyoming has not applied for primary authority to enforce the public water supply protection program. Contact: Mia Bearley, Attorney, (303) 312-6554.

Region 8 Issues Administrative Order to U.S. Department of Agriculture, Unita-Wasatch-Cache National Forest For SDWA Violations in Wasatch County, Utah

The Aspen Grove Campground Public Water System (System), located in Wasatch County, Utah, serves approximately 25 individuals daily at least 60 days of the year using a groundwater source. On September 23, 2015, Region 8 issued an administrative order alleging that the System violated the EPA's National Primary Drinking Water Regulations regarding nitrate monitoring requirements and a failure to correct significant deficiencies, as well as associated public notice and reporting requirements. The EPA, rather than the State of Utah, took this action because after the EPA provided the State with a notice of violation letter regarding the System and a 30-day period within which to bring an enforcement action, Utah declined to bring an enforcement action. Contact: Mia Bearley, Attorney, (303) 312-6554.

Region 8 Issues Compliance Order to High Plains Motors, Inc. for Alleged Violations of the RCRA Hazardous Waste Program on the Fort Peck Indian Reservation

On September 29, 2015, Region 8 filed a Compliance Order and Notice of Opportunity for Hearing (Order) to High Plains Motors, Inc., an automobile dealership and service center located within the exterior boundaries of the Fort Peck Indian Reservation. The Order addresses violations discovered during a July 2015 inspection, which include failure to comply with used oil requirements, failure to make hazardous waste determinations, and treatment of hazardous waste without authorization. The Order will require compliance with RCRA generator requirements and used oil regulations in the future. The State of Montana has been notified of this enforcement action. Contact: Abigail Dean, Attorney, (303) 312-6106.

Regional Judicial Officer Incorporates Combined Complaint and Consent Agreement Settling CWA Stormwater Construction Violations into a Final Order

On August 19, 2015, Region 8 and Acme Paving Company, Inc., filed a combined complaint and consent agreement (CCCA) proposing to settle the EPA's allegations that Acme violated a

NPDES permit for stormwater discharges associated with construction activities issued to Acme by the State of North Dakota for a construction project near Williston, ND. Acme agreed to pay $30,962 to settle the allegations. Also on August 19th, Region 8 initiated a 30 day public comment period. No comments were received. On September 28, 2015, the RJO incorporated the CCCA into a final order. Contact: Chuck Figur, Attorney, (303) 312-6915.

Region 8 Issues Two UAOs in Connection with the Anaconda Smelter NPL Site in Montana

On September 24, 2015, Region 8 issued two UAOs in connection with the Anaconda Smelter NPL site in Montana. The two UAOs are for 1) lead in yards and lead and arsenic in attics in Anaconda, at the Community Soils OU and 2) soils with lead and arsenic in agricultural land near and along Warm Springs Creek and the stream banks of Warm Springs Creek, east of Anaconda, at the Warm Springs Creek OU. Counsel for AR have been expecting these UAOs and have indicated that Atlantic Richfield (AR) will respond with "intent to comply" letters in the near future. Contact: Andy Lensink, Attorney, (303) 312-6908.

Region 8 Settles EPCRA and CAA Actions Against Nicholas and Co., Inc.

On September 29, 2015, Regional Judicial Officer Elyana R. Sutin issued a final order approving an Expedited Settlement Agreement (ESA) between the EPA and Nicholas and Co., Inc. for alleged violations of the Emergency Planning and Community Right-to-Know Act (EPCRA). Nicholas and Co., Inc. owns and operates a cold storage warehouse facility located in Salt Lake City, Utah. In the ESA, the EPA alleged that Nicholas and Co., Inc. violated the requirement to file inventory reports for hazardous chemicals as required by § 312 of EPCRA, 42 U.S.C. § 11022. Specifically, the EPA alleged that Nicholas and Co., Inc. failed to file inventory reports for diesel fuel and diesel exhaust fluid stored at its facility. Nicholas and Co., Inc. agreed to pay an administrative penalty of $2,000 to settle the matter.

On September 16, 2015, Regional Judicial Officer Elyana R. Sutin issued a final order approving an ESA between the EPA and Nicholas and Co., Inc. for alleged violations of the Clean Air Act (CAA) § 112(r). In the ESA, the EPA alleged that Nicholas and Co., Inc. violated CAA section § 112(r)(7) and various provisions at 40 C.F.R. part 68 by failing to: (1) document that equipment complies with generally accepted good engineering practices; (2) perform periodic inspections of shut-off valves; (3) adequately document inspections of pressure vessels and refrigeration system piping, and; (4) adequately correct surface corrosion of ammonia piping. Nicholas and Co., Inc. agreed to pay $4,800 to settle the matter. Contact: Jessica Portmess, Attorney, (303) 312-7026.

Region 8 Settles TSCA Case with Fortune Homes, Inc. for Violations of Lead-based Paint Renovation, Repair and Painting Standards

On September 28, 2015, Regional Judicial Officer Elyana R. Sutin issued a final order approving an Expedited Settlement Agreement (ESA) between the EPA and Fortune Homes, Inc. In the ESA, the EPA alleged that Fortune Homes, Inc. had violated § 409 of the Toxic Substances Control Act by performing a renovation of target housing in Colorado Springs, Colorado without

having Lead-based Paint Renovation, Repair and Painting requirements (RRP) in place. The EPA alleged that Fortune Homes, Inc. had performed a renovation without initial certification and had failed to keep records necessary to demonstrate compliance with RRP. Fortune Homes, Inc. agreed to pay $400 to settle the matter. Contact: Jess Portmess, Attorney, (303) 312-7026.

EPA Region 8 Enters Into Administrative Order on Consent with Clearwater Holdings, LLC, to Address CWA Violations in Utah County, Utah

On September 29, 2015, EPA Region 8 entered into an administrative order on consent with Clearwater Holdings, LLC, to address unauthorized discharges of dredged and fill material to wetlands adjacent to Utah Lake and the Spanish Fork River. The discharges occurred in or around October of 2013, when Clearwater, or persons acting on its behalf, filled and/or graded wetlands, creating berms by pushing material from wetlands along the eastern shore of Utah Lake and the southern shore of the Spanish Fork River into piles along the water's edge. Wetlands east of the berm along Utah Lake were cleared and graded, and drainage ditch construction with sidecasting into the wetlands occurred. Clearwater did not obtain a Clean Water Act section 404 permit from the U.S. Army Corps of Engineers prior to performing the work. The AOC incorporates a restoration plan that specifies compliance measures to correct the environmental damage resulting from the unauthorized discharges. Contact: Wendy Silver, Attorney, (303) 312-6637.

Region 9

Regular Highlights:

Enforcement and Compliance Assurance Issues

Region 9 Settles TSCA Inventory Update Case Against American Vanguard Corporation
On September 30, 2015, Region 9 filed a Consent Agreement and Final Order ("CAFO") initiating and resolving its case against American Vanguard Corporation ("Respondent") for violations of the Toxic Substances Control Act ("TSCA") and implementing TSCA Inventory Update regulations at 40 C.F.R. Part 711. Under the terms of the CAFO, Respondent must pay a penalty of $81,855. Contact: Carol Bussey, ORC, 415-972-3950.

Region 9 Settles SDWA Administrative Penalty Action Against Vacation Inns International, Inc.
On September 29, 2015, Region 9's Regional Judicial Officer approved a Consent Agreement and Final Order ("CAFO") issued to Vacation Inns International ("Respondent") for its failure to close six large capacity cesspools in Haleiwa, Hawaii. Pursuant to the Safe Drinking Water Act, EPA has banned and required closure of large capacity cesspools by no later than April 5, 2005. The CAFO requires Respondent to close the cesspools and pay a penalty of $40,000. Contact: Julia Jackson, ORC, 415-972-3948.

Region 9 Resolves Penalty and Compliance Actions Against Public Water System in Arvin, California
On September 29, 2015, Region 9 issued a Consent Agreement and Final Order ("CAFO") and Administrative Order on Consent ("AOC") to the Arvin Community Services District ("Respondent") for its failure to meet the SDWA's maximum contaminant level ("MCL") for arsenic in the drinking water provided by its public water system ("System") located in Arvin, Kern County, California. Pursuant to the CA/FO, Respondent will pay a penalty of $14,750 for its failure to bring the System into compliance with the arsenic MCL pursuant to an administrative order for compliance originally issued by EPA in 2008 (and amended in 2010). Pursuant to the AOC, Respondent will bring its System into compliance with the arsenic MCL by either drilling five new wells or installing a centralized water treatment facility, depending on the analytical results of water from exploratory wells currently being drilled. The AOC also requires Respondent to immediately implement interim measures to provide safe drinking water to its customers by providing free water from vending machines at Respondent's offices and ensuring the proper operation and maintenance of point-of-use arsenic removal systems at numerous public and private facilities throughout the City of Arvin, including schools, day care facilities, retirement centers, parks, and hospitals. Contact: Rich Campbell, ORC, 415-972-3870.

Region 9 Settles Two CAA 112(r) Cases With Guam Petroleum Storage Facilities
On September 30, 2015, Region 9 finalized two Consent Agreements and Final Orders with two companies in Guam, South Pacific Petroleum Corp (SPPC) and Tristar Terminals Guam (Tristar) for violations of Clean Air Act Chemical Accident Prevention Risk Management Plan (RMP)

requirements. EPA inspected the facilities in October 2012, and determined that both facilities were violating several core RMP requirements regarding propane storage. Both companies have timely complied with Unilateral Administrative Orders (UAOs) issued by EPA in August 2013. Tristar will pay a penalty of $200,000 and SPPC will pay a penalty of $206,000 for the violations identified through the 2012 inspections. Contact: Rebecca Sugerman, ORC, 415- 972-3893.

Region 9 Settles East Bay Municipal Utility District RCRA Case

On September 30, 2015, Region 9 finalized a Consent Agreement and Final Order with EBMUD for two RCRA violations at its facility in Oakland, California. EBMUD received and treated approximately 26 shipments of ignitable hazardous waste over two years, which it used in its successful Resource Recovery program that turns waste into energy. EBMUD does not meet all prerequisites for Publicly-Owned Treatment Works (POTWs) to qualify for a RCRA Treatment, Storage and Disposal permit under federal "Permit by Rule." The Respondent will pay a penalty of $99,900, which reflects the gravity-based penalty and the economic benefit that accrued from receiving the waste. EPA inspected the facility on January 16 and 21, 2015. Contact: Rebecca Sugerman, ORC, 415-972-3893.

Region 9 and Hawaii Department of Health Reach Agreement with U.S. Navy and Defense Logistics Agency Regarding UST Requirements

On September 28, 2015, Region 9 and the Hawaii Department of Health finalized an Administrative Order on Consent ("AOC") with the U.S. Navy and Defense Logistics Agency ("DLA") pursuant to their respective federal and state authorities to regulate underground storage tanks (USTs) and waste and to protect drinking water, natural resources, human health and the environment. EPA issued the AOC pursuant to its authority under Section 7003 of the Resource Conservation and Recovery Act to require the Navy and DLA to perform a release assessment, response to release, and actions to minimize the threat of future releases in connection with the field-constructed bulk fuel USTs at the Red Hill Bulk Fuel Storage Facility, located near Pearl Harbor, Oahu, Hawaii. Contact: Rebecca Sugerman, ORC, 415-972-3893.

Region 9 and DOJ Lodge Consent Decree for Del Amo Superfund Site OU-1

The U.S. Department of Justice has lodged a proposed consent decree with the U.S. District Court for the Central District of California that will require cleanup of Operable Unit 1 of the Del Amo Superfund Site. The defendant, Shell Oil Company, a past owner and operator of the former rubber plant at the Site, has agreed to conduct the remedial design and remedial action described in the Record of Decision for OU-1, to reimburse EPA for $1.2 million in past response costs, and to pay future oversight costs; the settlement is valued at approximately $55 million. In addition, the proposed consent decree resolves claims against the General Services Administration, the successor to the prior government owner of the rubber plant. Contact: Sarah Mueller, ORC, 415-972-3953.

Region 10

Regular Highlights:

Enforcement and Compliance Assurance Issues

Federal District Court Enters Consent Decree with Suellyn Rader Blymyer and Uptrail Group, LLC for CWA 404 Violations

On October 1, 2015, the U.S. District Court for the Western District of Washington entered a consent decree resolving CWA Section 404 violations with Suellyn Rader Blymyer (individually and in her capacity as the Personal Representative of the Estate of Lyle Rader) and the Uptrail Group, LLC. The violations arise out of the unauthorized filling of approximately 10 acres of wetlands in Lynden, Washington, including construction of a dirt road and excavation of a 100 foot long trench in 2006. The consent decree requires the defendants to record a conservation easement on 19 acres and the completion of an EPA-approved fill removal and restoration project at the location of the impacted wetland. Regular maintenance, monitoring and adaptive management of the restoration project is required for 10 years to ensure its success. The consent decree requires the defendants to pay a civil penalty of $210,000. Contacts: Kris Leefers, (206) 553-1532; Krista Rave-Perkins, (206) 553-6686.

Region 10 Settles with Unified Grocers, Inc., for CERCLA, EPCRA, and CAA 112r Violations

On September 23, 2015, Region 10 filed a consent agreement and final order to resolve CERCLA/EPCRA release reporting violations, CAA 112(r) risk management program violations, and EPCRA Section 312 chemical reporting violations by Unified Grocers at the company's ammonia refrigeration warehouse and distribution facility in Seattle, Washington. The company estimates it will spend more than $180,000 for a Supplemental Environmental Project (SEP) to improve the existing monitoring system to allow for more rapid detection of an ammonia release and more accurate information regarding the location of the release. This information will in turn assist plant personnel and first responders in safely evacuating the building in the event of a release and stopping the release as soon as possible. The SEP will thus reduce the risk of exposure of employees, the surrounding neighborhoods, and first responders to anhydrous ammonia. This settlement is consistent with EPA's national effort to promote the use of "next generation" technology to enhance compliance. The company also agreed to pay a penalty of $110,200 for the violations. Contacts: Julie Vergeront, (206) 553-1497; Javier Morales, (206) 533-1255; Suzanne Powers, (360) 753-9475.

Region 10 Settles with ConAgra Foods Lamb Weston, Inc. for CWA Violations

O September 1, 2015, Region 10 filed a consent agreement and final order resolving violations of the Clean Water Act by ConAgra Foods Lamb Weston. Respondent, the operator of a food processing facility, exceeded its pH discharge limit on three occasions and on a separate occasion caused a discharge of process wastewater to a receiving water. The company agreed to pay a penalty of $21,500. Contacts: Stephanie Mairs, (206) 553-7359; Chae Park, (206) 553-1441.

Region 10 Settles with Shianne and Jason Minekime for CWA Violations

On September 24, 2015, Region 10 filed a consent agreement and final order resolving violations of the Clean Water Act by Shianne and Jason Minekime. Respondents operate a placer mining facility in North Pole, Alaska, that discharged pollutants to waters of the U.S. in violation of its NPDES general permit coverage. The respondents agreed to pay a penalty of $1,200.
Contacts: Endre Szalay, (206) 553-1073; Rick Cool, (206) 553-6223.
